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ABSTRACT

Intended for legislators, educators, and advocates, the document presents a model policy statement, statute, and state plan regarding the education of gifted and talented students. The models were based upon analysis of existing state policies, legislation, and plans. Preliminary discussion focuses on issues of mandation, administrative organization, and finance. Following the brief model policy statement, a model statute is presented with information on definitions, identification of gifted and talented students, service delivery, procedural safeguards, state administration, school district administration, personnel, and finance. Examples of alternative state statute language are appended. The model state plan addresses the following areas: right to education, identification, procedural safeguards, service delivery, personnel development, public notice and opportunity to comment, and fiscal management. (CL)

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MODEL STATE POLICY, LEGISLATION AND STATE PLAN TOWARD THE EDUCATION OF GIFTED AND TALENTED STUDENTS: A HANDBOOK FOR STATE AND LOCAL DISTRICTS

John A. Grossi

The Council for Exceptional Children

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INTRODUCTION

The following model state policy statement, statute, and state plan were designed to provide a basis for a free appropriate public education for all gifted and talented students who require special education and related services. Because of the uniqueness of each state, a variety of policy options exists for the use of these models. States currently without legal provisions or those wishing to make a complete revision of their laws may regard these models in their entirety as a complete set containing philosophical foundation, legal provisions, and implementation considerations. Other states may wish to employ individual segments of each model as additions to existing policies or as substitutions for particular comments needing improvement. Educators, legislators, and advocates may use these models as guides against which existing state provisions for the education of gifted and talented students can be assessed.

Throughout, parentheses are used to indicate alternative language or areas for the insertion of appropriate existing state law or policy. The comprehensive state statute relating to the education of gifted and talented students is arranged in twelve (12) sections. Considerations in the development of a model state plan are arranged in seven (7) sections.

Collection and Analysis of Existing State Data

The major activity which preceded the development of these models was the collection and analysis of all current state policies, statutes, and state plans related to the education of gifted and talented students.

A two-step process was followed to assure that the project received the most current available data. First, the data base in The Council for Exceptional Children Policy Research Center (CEC/PRC) was searched for gifted and talented state policy, statutes, and state plans. Second, a request was sent

to each of the fifty state education agencies as part of a survey undertaken to verify obtained information to acquire missing or updated data.

Once this was done, collected data was arranged into three separate categories: policy, statute, or state plan. Each group was then analyzed to determine first whether the data contained provisions, statement of purpose, identification, placement, evaluation of programs, personnel standards, individualized education program, state and local responsibility, and finance; and second, whether other provisions were included and should be considered in the development of the models. Procedural safeguards and service delivery options were two provisions identified in the second stage of analysis.

A finding of the legislative analysis was the paucity of comprehensive provisions in state policy. This discovery served to substantiate the need for each of the proposed models in the area of gifted education. Most notably absent were provisions addressing the identification and placement of gifted students into programs which included procedural safeguards. Therefore, it was felt that each of the models developed for the education of gifted and talented students needed to be comprehensive, as well as flexible. In some instances, the models set out detailed requirements. An example of this may be found in the state and local agency responsibility and procedural safeguards sections of the model statute. In other cases, the models attempt to set out the barest minimum requirements on which subsequent regulation and administrative policy may expand.

The preliminary analysis described above revealed eight states which, when considered together, are representative of the broadest variety of policy and legislative approaches. The state legislatures of California, Connecticut,

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Florida, Georgia, Idaho, Illinois, North Carolina, and Idaho, North Carolina and Pennsylvania have enacted mandates requiring them to educate all gifted and talented students. California, Connecticut, and Illinois, on the other hand, are states whose policies encourage rather than require an increase in the development and improvement of gifted programs.

The policies, state plans, and statutory provisions of these eight states were further analyzed for variations in approach in the policy areas identified by the project, and for gaps in such provisions.

Issues and Alternatives

The political, economic, demographic, and social realities in the various states as well as existing educational policy and procedures may dictate that approaches be adopted which differ from those presented in the developed models.

To assist states in making these decisions, three issues will be discussed below to illuminate the policy alternatives and their implication for gifted and talented persons. The issues are mandation, administrative organization, and finance.

Mandation

At the present time, eighteen (18) states have adopted a mandatory legislative approach to gifted and talented education. While the growth in gifted and talented programs is not solely dependent on legislation, a mandatory law has certain advantages. California is a case in point in the education of the gifted and talented. This state was one of the most comprehensive in the nation despite a permissive legislation base. Recent revenue cut-backs in California, however, resulted in a 27% decrease in gifted and talented children served in 1977-1978 compared to the previous year. It would seem that

mandatory legislation combined with adequate levels of state financing would provide the best protection for gifted and talented students. In those states where advocacy and state leadership have been successful in providing appropriate gifted education without mandation, the prospect of a Proposition 13 type of reaction should cause a reevaluation of legislative agendas.

The models require that programs be provided to gifted and talented students who meet the eligiblity requirements established by a state and are in need of special education and related services. In addition, they provide for a program of financing, personnel,and enforcement. As there are different forms of mandatory legislation, as well as shades of permissive provisions which in certain circumstances can be more effective than selective mandates, the following guidelines may help advocates strengthen their state policy.

- State policies should require appropriate programs for all gifted and talented students, not, for example, only the intellectually gifted.
- If planning time is built into policies, there should be a provision for review of the plan at the state level.
- Mechanisms should be included in legislation to grant the state education agency enforcement powers sufficient to obtain compliance.
- The state's commitment to gifted children should be supported by a funding level which distributes the financial responsibility between the state and local districts, but which does not make gifted education conditional upon specific levels of state support.

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Administrative Organization

The nature of these models and in particular, the statute, suggests that they be administered under the same administrative structure and authority as education programs for the handicapped. From the perspective of practicality and efficiency, the approach seems beneficial. The similarities in identification procedures, procedural safeguards, personnel development, and state and local management responsibilities, between handicapped and gifted and talented programs are based on sound educational practice and not on any artificial or arbitrary arrangement for administrative convenience. Currently, administrative responsibility for gifted and talented programs is housed within special or exceptional education in twenty-eight (28) states, and has been accepted as the approach of the developed models. The following table lists states taking this policy approach and five other alternatives for administrative housing of gifted and talented programs.

*GIFTED AND TALENTED PROGRAMS: WHERE THEY ARE ADMINISTRATIVELY HOUSED

I. Administratively Housed Within Special or Exceptional Education

Alabama	Georgia	Mississippi	N. Dakota
Alaska	Hawaii	Missouri	Ohio
Arizona	Idaho	Nevada	Oklahoma
Arkansas	Illinois	N. Hampshire	Oregon
Colorado	Kansas	N. Jersey	Pennsylvania
Connecticut	Louisiana	N. Mexico	Tennessee
Florida	Maine	N. Carolina	W. Virginia

II. Administratively Housed Within Gifted and Talented Education

Delaware Virginia

*Zettel, Jeffrey J. "Gifted and Talented Education: The State of the Art 1977-78;"The Council for Exceptional Children.

III. Administratively Housed Within Curriculum or Instructional Program

California	Kentucky	Minnesota	Wyoming
Indiana	Maryland	Nebraska	
Iowa	Massachusetts	Wisconsin	

IV. Administratively Housed Within General or Elementary & Secondary Education

Michigan	New York	S. Carolina	Utah

V. Administratively Housed Within Student or Special Services Programs

S. Dakota	Texas	Washington

VI. Administratively Housed Within Research, Evaluation, or Technical Assistance

Rhode Island	Vermont	Montana

Whenever changes are considered in a given state for housing the administrative responsibility for gifted and talented programs, it would be well to consider the following recommendations:

- The administrative head of the state's gifted and talented programs should be responsible directly to the head of the exceptional child program or to the head of the state education agency.
- The operating budget for gifted and talented programs and the total special education budget should have visibility so it may be given proper consideration by governors, legislators, and the general public.
- Gifted and talented programs should be viewed as part of basic educational rights of gifted and talented students rather than as a supplementary frill. Administrative location reflects this status.
- State administration needs to be accessible to all school districts in the state. Therefore, if the state has regional offices with

delegated authority equal to that of the state education agency, administrative personnel for gifted and talented programs should be represented in these regional offices.

- The administrative arrangement needs to facilitate the many liaison functions which the state coordinator of gifted and talented programs may be required to perform; for example, federal grant coordinators,with heads of special populations such as minority, migrant or disadvantaged; and with other agencies, e.g., higher education, correction, and mental health.
- The location of the state's gifted and talented program within the state education agency must enable it to invoke the endorsement powers provided in the state law if necessary to obtain compliance and insure a free appropriate public education for the state's gifted and talented students.

Finance

The model statute and state plan set forth an excess cost formula. School districts determine the per pupil cost of educating a gifted and talented student and then subtract from this amount the cost of educating a non-gifted and talented student in the same district. The difference or excess is then reimbursed by the state. Such a funding method is somewhat difficult to monitor,as determining what constitutes excess costs is not easy. However, this method of financing has several advantages, some of which are as follows:

- It does not discriminate against districts by size or wealth.
- It does not encourage service delivery decisions where there

is a fiscal advantage.

- It does not foster large class size, or special class placement.
- It does approach the ideal when making decisions affecting individually designed educational programs.

A variety of funding formulas is currently used by states. Common methods are the weighted systems, unit financing, percentage reimbursement, reimbursement by personnel,and straight sum reimbursement. Regardless of the method used or proposed, considerations for gifted and talented students include the following:

- Funding formula should be flexible enough to support programs of varying costs.
- Individual needs of students rather than administrative convenience should be the underlying principal.
- Funding should be tied to a state approved plan for which the state and the district can be held accountable.
- Funding should provide for both state and local expenses and include all the costs of an education program such as instructional and administrative personnel, supplies and materials, and identification and related services.
- Built into the formula should be a capacity for the child to enter the program at any time during the year.
- Systems which pay assessment costs provide financial incentives for early identification of giftedness in children.

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- There should be assurances that funds are spent on gifted and talented programs in accordance with each child's individually designed educational program.

MODEL STATE POLICY FOR THE GIFTED AND TALENTED

MODEL STATE POLICY FOR THE GIFTED AND TALENTED

It is recognized that residing within this state are many gifted and talented students who possess learning and other skills that are in advance of their age and social peers. Those abilities require that these students receive the benefits of public school programs designed to meet their special educational needs. Denial of special education may mean that these students will have no opportunity to realize a greater degree of their given potential, the state will fail to meet its obligation to promote quality education, and society will not experience the contribution of a significant portion of its future citizenry.

Failure to adopt specific policy addressing the gifted and talented may also cause educational maladjustment, as these students will be compelled to participate in activities which hold little, if any, educational satisfaction or challenge resulting in boredom and the development of counter-productive work skills, academic underachievement, and limited career options.

Traditionally, the gifted and talented have had to contend with popular myths concerning their exceptionality (they can function adequately without intervention, etc.) that while presently acknowledged as being false, have none the less had prolonged negative effects on the delivery of appropriate educational services.

The state must also address the future contributions of gifted and talented persons in all areas of education, physical and social technology and the arts. Furthermore, consideration must be given to those personal accomplishments and rewards gifted and talented children and youth may experience if their abilities are nurtured throughout their crucial formative years. Therefore, it would seem a grave injustice if the gifted and talented, both totally and in-

dividually were not provided the necessary educational intervention their exceptionality demands.

Of equal importance is the drop-out rate of many gifted and talented students directly attributed to the void in properly designed curricula. Similarly, many gifted and talented students are being labeled as handicapped because their demonstrated behavior does not fit within the generally accepted stereotype of non-gifted learners. The education profession has been philosophically and morally committed to the premise of providing optimal educational opportunities for all exceptional children. To date, the disadvantaged, the bilingual, and the handicapped have witnessed major activities leading to the fulfillment of these goals. Activities of similar magnitude for the gifted and talented have yet to occur. By adopting this policy, this state will move closer to the removal of the education of the gifted and talented from its secondary status placement within the state's established educational program.

The potential personal and societal contributions of the gifted and talented identify them as one of the nation's greatest natural resources. Therefore, it is incongruous for these students not to have the benefit of educational services that can assure them an optimum opportunity for development. These opportunities will enable them to experience a greater degree of self-satisfaction and increase their involvement and contributions as citizens.

To prevent the further propagation of such misdirected activities, it is the goal of the state to remove existing barriers to the education of all gifted and talented students. This will occur through the adoption of public education for all school age gifted and talented children and youth, including special education and related services determined necessary to meet the needs of each gifted and talented student. Services will be provided in all schools,

school districts, or programs within the state where these students are served. This policy will also insure that the educational rights of all gifted and talented students and their parents or guardians are protected and that no gifted and talented student will be denied equal educational opportunities on the basis of physical, emotional, or mental handicaps. In addition, state policy will also direct that funds, services, training, technical assistance, administrative evaluation, and monitoring activities necessary to insure implementation be provided. The state board of education will designate the responsibility for administration of state programs and services for the gifted and talented within the special education or exceptional child division of the state department of education.

This policy will be implemented through the development of educational programs designed to meet the needs of each gifted and talented student. In relation to those goals and major instructional milestones identified as being necessary to achieve personal and academic success, comprehensive identification procedures will be developed that locate those students, who because of their gifts and/or talents, require the benefit of special education. Equally important in the improvement of services to all gifted and talented students, is the provision of programs designed to meet their unique educational needs. Such programs shall motivate these students to discover and further inquire into their environments by providing a challenging, enriched atmosphere where learning can take place and positive change can occur. To assure that these activities are undertaken, evaluation of programs for gifted and talented students throughout and at the conclusion of the school year, will be conducted to assess both the child's individually designed educational program and placement. Finally, to organize a comprehensive system of service delivery to all gifted and

talented students, a state plan delineating major topical areas, focus elements, and strategies for implementation shall be developed. This plan will identify all service and resource components required in the education of gifted and talented students and their families, including state and local personnel and agencies necessary to provide those services.

A MODEL STATUTE

TOWARD THE

EDUCATION OF GIFTED AND TALENTED STUDENTS

A MODEL STATUTE FOR THE EDUCATION OF GIFTED AND TALENTED STUDENTS

SECTION 1: TITLE

This Act shall be known as "The Education of Gifted and Talented Students Act."

SECTION 2: STATEMENT OF PURPOSE

201 - General

(a) It is the policy of this state to provide gifted and talented students an appropriate education designed to meet their special needs in a setting as close to that of their peers as possible. Such education shall include all special education and related services necessary to meet the needs of each gifted and talented student enrolled in the state's public schools. Such education shall be provided through the development of educational programs individually designed for each gifted and talented student's unique educational needs and in accordance with procedural safeguards designed to protect the educational rights of such students.

(b) All gifted and talented students will be provided a free appropriate public education in accordance with the provisions of this Act. This Act should be liberally construed toward this end.

(c) Nothing in this Act shall preclude students who have other unique educational needs resulting from conditions such as handicaps, economic disadvantages, multilingualism, in addition to those resulting from their gifts or talents from being provided an appropriate education. Such education shall be provided in conformance with an individually designed educational program developed to reflect the multiple needs of each student.

(d) No student shall be excluded from participation in, denied the benefits of, or subject to discrimination under any public or publicly

COMMENTS

SECTION 1: TITLE No comment necessary.

201 - General

The ultimate goal of this Act is to assure that the rights of gifted and talented students to an education designed to meet their unique educational needs is provided regardless of their geographic location within the state. In addition, this Act addresses the assurance of the minimal rights and protections required to assist a gifted and talented student in receiving an appropriate education in an environment which poses the least educational restrictions on that student. The Act also guarantees that this education will be provided at no cost to the gifted and talented student or family.

No gifted and talented student should be excluded from receiving the benefits of this Act because other conditions make compliance more difficult. If a gifted and talented student is also classified as possessing an additional exceptionality or condition which makes that student eligible to receive support from financial and other sources, states are encouraged to investigate those resources when partial support for a student's diverse exceptionality may be combined. Some possibilities may be Title VI, EHA, Bilingual Education, Title IX of P.L. 95-561, Title IV-C, Vocational Education, Career Education.

Mandation requires that a student who is identified as gifted and talented be provided with an appropriate education. Therefore, educational exclusion for the reasons stated in this section are completely contrary to the basic premise of the law.

STATUTE

supported or regulated educational program on the basis of that student's gifts or talents, including without limitation, academic, nonacademic and extracurricular programs and activities.

SECTION 3: DEFINITIONS

As used in this Act, the following terms have the meaning ascribed to them in this section.

301 - Gifted and Talented Student

The term "gifted and talented student" means a child or youth between the ages of 3 and 18 who has been identified by professionally qualified personnel as possessing, or as being capable of developing above-average abilities in areas such as general intellectual ability, specific academic ability, leadership ability, artistic ability and creative ability, and who by reason thereof, requires special education and related services.

COMMENTS

301 - Gifted and Talented Student

Definition of gifted and talented depends largely on environment and available programming. In a 1977 survey of each of the fifty states and the District of Columbia, it was reported that thirty-seven states and the District of Columbia have a definition of the gifted and talented. However, only nine of these states have adopted the language of the 1972 USOE definition, i.e.:

> Gifted and talented children are those identified by professionally qualified persons who by virtue of outstanding abilities are capable of high performance. These are children who require differentiated educational programs and/or services beyond those normally provided by the regular school program in order to realize their contribution to self and society.
>
> Children capable of high performance include those with demonstrated achievement and/or potential ability in any of the following areas, singly or in combination:
>
> 1. general intellectual ability
> 2. specific academic aptitude
> 3. creative or productive thinking
> 4. leadership ability
> 5. visual and performing arts
> 6. psychomotor ability.

The definition employed by the other states varies widely, but a number of these include one or more of the components of the USOE definition.

On November 1, 1978, President Carter signed into law P.L. 95-561, the

STATUTE

302 - Professionally Qualified Personnel

The term "professionally qualified personnel" means individuals or groups of individuals representing one or more of those professions such as education, medicine, psychology, sociology and the arts and who have had appropriate preparation in the administration and interpretation of both formal and/or informal assessment measures used to identify giftedness and/or talent in children and youth.

303 - Gifted and Talented Student--General Intellectual Ability

The student gifted in "general intellectual ability" means an individual who can perform or accomplish cognitive operations at a significantly higher level than expected, given that student's chronological age and experiences.

COMMENTS

Elementary and Secondary Education Act of 1978. Title IX of that law, the Education of Gifted and Talented Children and Youth Act of 1978, includes a definition which differs somewhat from the definition found in P.L. 93-380, the Elementary and Secondary Education Act of 1974 and adopted by the USOE, i.e.:

> ...the term 'gifted and talented children' means children, and whenever applicable, youth, who are identified at the preschool, elementary, or secondary level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability, or in the performing and visual arts, and who by reason thereof, require services or activities not ordinarily provided by the school.

302 - Professionally Qualified Personnel

There is some debate as to what qualifies a person as being "professionally qualified." To a large degree, this determination depends on the assessment task to be completed and the training required to successfully complete that task. In-depth determination is usually addressed in those regulations developed by a state to be used in the actual implementation of the law. No matter where the location, statute, regulations/guidelines, etc., the basic objective of defining "professionally qualified personnel" is to guard against the misidentification and labeling of students as gifted and talented when in fact that student is not gifted and talented, or identification or labeling of a student as not being gifted and talented, when in reality the reverse is true.

303 - Gifted and Talented Student--General Intellectual Ability

This ability applies to all academic disciplines, and not only to one or the other curricular areas.

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304 - Gifted and Talented Student--Specific Academic Ability

The student gifted in "specific academic ability" means an individual who excels in one or more major curricular areas to a significantly greater degree than other areas in that student's curriculum.

305 - Leadership Ability

The student gifted in "leadership ability" means an individual who regularly provides motivation, guidance, direction and assistance in crises situations, primarily to his/her age and social peers, but also to others with whom that child has contact.

306 - Gifted and Talented Student--Artistic Ability

The student gifted in "artistic ability" means an individual who shows skill in such visual arts as painting, sculpting or creating with materials or who demonstrate talents or ability in such performing arts as dramatics, dancing, singing, movement or music.

307 - Gifted and Talented Student--Creative Ability

A student gifted in "creative ability" means an individual who possesses the ability to integrate seemingly unrelated information to formulate new solutions or the ability to manipulate accepted operations in the production of unique outcomes.

308 - Special Education

"Special education " means specially designed instruction at no cost

COMMENTS

304 - Gifted and Talented Student--Specific Academic Ability

Distinct from "general academic" this ability area refers to a student's achievement in a specific discipline. Students gifted in this area very often do not achieve as well in all other curriculum areas. However, if a student is indeed gifted, performance in all academic areas will still be higher than his/her non-gifted peers.

305 - Leadership Ability

While research generally agrees that gifted and talented students very often possess the capability for leadership, there are very few valid measures for formally identifying such ability. The use of sociograms to identify children as gifted and talented in leadership is common, but the number of uncontrolled variables associated with this technique serve to make its use less valid than a more controlled procedure.

306 - Gifted and Talented Student--Artistic Ability

Skill should be interpreted as being significantly greater than the age of a child usually allows. In addition, children with artistic ability should demonstrate some sense, no matter how primitive of a basic command of media, either orally, emotionally, or tactically.

307 - Gifted and Talented Student--Creative Ability

While creativity certainly applies to artistic ability in this context, creativity refers more to mental process as used to produce both tangible and intangible end products involving the use of divergent thinking, problem solving, etc.

308 - Special Education

A gifted and talented student eligible for special education is one

to parents, or guardians to meet the unique educational needs of a gifted and talented student.

309 - Related Services

"Related services" means those activities that are required to assist a gifted and talented student to benefit from special education, and includes transportation, counseling, and other supportive services.

310 - Free Appropriate Public Education

"Free appropriate public education" means special education and related services which:

(a) are provided in conformity with the student's individually designed educational program;

(b) are provided at no cost to the gifted and talented student or to his/her parents, and under public supervision and direction;

(c) meet the standards of the state education agency; and

(d) include an appropriate preschool, elementary, secondary, or vocational education.

311 - Individually Designed Educational Program

(a) "Individually designed educational program" means a written statement for each gifted and talented student developed in a meeting

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whose abilities are so extreme as to require a modification in that child's educational program, if that program is not designed to adequately challenge that child's abilities, or meet his/her special needs. Differential curriculum for the gifted and talented falls within the context of special education.

309 - Related Services

In certain instances, enrichment for the gifted and talented has been viewed as a related service. While this is acceptable if there are other program provisions, this should not be an across-the-board policy if in fact enrichment is the only program offering. In those states where implementation monies are not sufficient to support a multioption program, enrichment may be the most economically feasible approach and would, therefore, be considered special education.

310 - Free Appropriate Public Education

This definition sets forth the criteria used to determine what the terms "free" and "appropriate" mean. All of the listed conditions must be met in order for the intent of this Act to be implemented. The absence of a free appropriate public education clause in a statute often requires a gifted and talented student who does not have available an educational program designed to meet his/her special needs, to adopt to an existing program.

311 - Individually Designed Educational Program

The individually designed educational program is a reflection of the modification necessitated by the unique learning needs evidenced by the student.

consisting of at least the following participants: (1) a representative of the school district who shall be qualified to provide, or supervise the provision of specially designed instruction to meet the unique needs of gifted and talented students; (2) the student's regular education teacher(s) or a teacher qualified to provide special education to gifted and talented students or both; (3) the parents or guardian of the student; (4) where appropriate, the student; and (5) other individuals agreed to by the parent or guardian or the district.

(b) the individually designed educational program shall include:

(1) a statement of the student's present level of educational functioning;

(2) a listing of annual goals requiring special educational services, including short-term instructional objectives which for the purpose of this Act, are defined as major learning milestones leading to the annual goals expected to occur during the year;

(3) a description of all special education and related services needed by the student and to be provided or arranged by the school district as part of the student's free appropriate public education;

(4) the projected dates for initiation and duration of such services;

(5) evaluation criteria and procedures;

(6) a listing of personnel responsible for carrying out the program.

(7) a description of the extent to which the student will participate in regular education programs.

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For the gifted and talented, as opposed to the handicapped, an individually designed educational program should be geared towards that individual's strength since this is why the student was identified as exceptional. If the student has demonstrated potential in a particular area, then this is the area in which programmatic changes must occur. On the other hand, a student's abilities may cover all or a combination of academic areas. Therefore, a much more extensive program would have to be developed to address the multiple needs evidenced by this kind of student. Where appropriate, the educational program for a gifted and talented student, should take into consideration the interest of the student. Compiling the information from a variety of professionals and the students should provide the balanced program needed to address the students abilities.

As stated in comment section 301, not all gifted and talented students require full or part-time placement in special education oriented programs. However, in those cases where a gifted and talented student requires part-time special education placement, his/her individually designed educational program should describe not only the special education portion of the programs, but the regular education portion as well.

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312 - School District

"School district" means a public board of education which is legally constituted within a state to administer, direct,or perform a service for the public preschool, elementary, secondary, or vocational schools in a city, county, township, other political subdivision, or such combination of school districts or counties as are recognized in the state as an administrative entity for its public schools.

313 - Parent

"Parent" means a parent, guardian, a person acting in loco parentis, or a surrogate parent appointed in accordance with procedural safeguards to make educational decisions on behalf of a gifted and talented student.

SECTION 4: IDENTIFICATION OF GIFTED AND TALENTED STUDENTS

401 - General

(a) Each school district shall locate, assess, and identify, or cause to be located, assessed, and identified, all students enrolled in its schools who are gifted and talented and who by reason thereof require special education and related services.

(b) The (state education agency) shall develop and promulgate administrative guidelines governing the assessment and determination of eligibility of gifted and talented students for special education and

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312 - School District

This definition extends to those students who in addition to being gifted and/or talented, are also handicapped and because of that handicap are residing and/or receiving educational services in an institution or noneducation agency. All public education programs in institutions and under noneducation agencies, are subject to the same requirements as programs in the education agency. Other agencies are, therefore, treated as school districts by virtue of their education functions. Included in this operation as well are those adjudicated youth who have been identified as gifted and talented.

313 - Parent

Though the role of a surrogate is commonly associated with the handicapped to provide advocacy for students in institutions or other facilities not usually considered part of the public school system, adjudicated youth who often have surrogate appointment should not be overlooked. In addition, a surrogate may also be assigned to advocate for a severely handicapped student who is also gifted and talented, if that determination can be made.

401 - General

Gifted and talented children often demonstrate their abilities and potential beginning in their preschool years. Therefore, this law is designed to be extended to children from three years of age. However, because children at this age are often not yet in the mainstream of public education, access to them is often thwarted. Therefore, the state must place considerable emphasis on the media to attract the attention of parents whose children may easily be overlooked.

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related services.

(c) Each student suspected to be gifted and talented and in need of special education and related services, shall be assessed according to the guidelines of the (state education agency) and a determination of eligibility for special education and related services for gifted and talented students made within thirty days following receipt of a request for assessment.

402 - Non-Discriminatory Assessment

(a) Each school district shall establish procedures to insure that:

(1) Assessment materials and procedures used for the purposes of identification and for the making of decisions regarding educational services to be delivered to gifted and talented students will be selected and administered so as not to be discriminatory on the basis of race, color, religion, creed, national origin, sex, or handicapping condition; and

(2) All assessment materials and procedures shall be administered in the gifted and talented student's native language or mode of communication and that no single procedure is used as the sole criterion for either determining an appropriate educational program for a gifted and talented student, or denying placement for that student.

(b) The (state education agency) shall develop and promulgate administrative guidelines governing the types of assessment materials and procedures that a school district may use.

403 - Assessment Procedures

Each school district shall establish procedures to insure:

(a) That each gifted and talented student referred is assessed in

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402 - Non-Discriminatory Assessment

This section is intended to prevent the misclassification and mis placement of individuals in school programs as a result of biased assessment procedures.

It is also necessary to insure validity of assessment results. Individuals taking tests in English when that is not their native tongue or without benefit of interpreters if deaf, for example, would yield inaccurate results. The requirement for using more than one procedure will help insure the reliability of placement decisions by enabling comparisons of data from a variety of sources to be made. States should refer to the definition of "native language" in the Bilingual Education Act (20 U.S.C. 880b-1(a)(z) when prescribing regulations or guidelines concerning this provision.

States may wish to endorse specific assessment instruments and/or materials or, to establish minimum criteria for social education agencies to follow in the selection of materials.

403 - Assessment Procedures

Due to the lack of standardized assessment measures in many of the subcategories of giftedness and talent, many states and local districts identify

all areas related to his/her specific suspected gift(s) and/or talent(s).

(b) That each gifted and talented student is assessed in other areas related to unique educational needs including, where appropriate, health, vision and hearing, social and emotional status, communicative status and motor abilities.

404 - Placement Pending Assessment Procedures

Each student is presumed to have no need for special education and related services until that student has been assessed and identified as a gifted and talented student pursuant to the procedures set forth in this Act. Pending development of an individually designed educational program which shall be completed within thirty days following determination of eligibility (according to the procedures set forth in Section 5 of this Act) the following provisions apply regarding educational placement unless the school district and the parents of the student agree otherwise:

(a) Each student already enrolled in the school district's programs shall remain in her/his current placement until such procedures are completed.

(b) Each student seeking initial admission to the school district's programs shall be admitted to the district's regular educational programs until such procedures are completed.

SECTION 5: SERVICE DELIVERY

501 - Individually Designed Educational Program; Delivery of Special Education and Related Services

(a) Each school district shall develop and implement an individually designed educational program for each identified gifted and talented student

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gifted and talented students only in the areas of intellect. However, by not identifying students in the other recognized ability areas, i.e., visual and performing arts, creativity, leadership, etc., the state is overlooking many gifted and talented students and, therefore, would not be in compliance with the law.

404 - Placement Pending Assessment Procedures

Because each state and very often each local district has dissimilar eligibility criteria for admission to a program for the gifted and talented, a student identified as gifted and talented in one state or local district and who relocates in another may in fact not be eligible for that state's or district's gifted and talented program. Therefore, placement in a program for non-gifted and talented students is appropriate until eligibility can be determined. In addition, in a state where funding for gifted and talented programs is determined on a per pupil basis, a non-gifted and talented student placed in a gifted and talented program prior to final determination will in fact be denying other eligible students a portion of their dollar appropriation and jeopardizing the comprehensiveness of their service delivery.

501 - Individually Designed Educational Program; Delivery of Special Education and Related Services

The individually designed educational program is a contract of agreement between the local education agency and the family of the gifted and talented

as a means of fulfilling its responsibilities under this Act.

(b) Each school district shall provide or cause to be provided to each gifted and talented student, the special education and related services set forth in the individually designed educational program.

(c) Decisions concerning the delivery of special education and related services, the educational placement, or the termination of an educational placement of a gifted and talented student shall be made solely on the basis of the student's unique need for special education and related services set forth in his/her individualized education program, defined in Section 3, subsection 312 of this Act and as consistent with the requirements of Section 5, subsection 505 of this Act.

(d) For gifted and talented students identified for the first time, the individually designed educational program shall be developed within thirty days of the date that student has been determined to require special education and related services according to the provisions of Section 4 of this Act.

(e) Each individually designed educational program shall be implemented without undue delay following its development.

502 - Review and Reassessment

Each school district shall periodically but at least annually review, and if appropriate, revise the individually designed educational program of each gifted and talented student to whom it provides special education and related services; and shall, at least every three years, reassess or cause to be reassessed, by methods consistent with Section 4, each gifted and talented student to whom it provides special education

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student, of what constitutes an appropriate education. Therefore, the local education agency must provide the services specified in each individual student's program in order to fulfill the requirements of the law.

This section also insures that all decisions as to the educational placement of gifted and talented students are made between the local education agency and the family upon careful consideration of the student's unique educational needs.

Thirty days is considered a reasonable amount of time to begin the delivery of special education and related services to the student, and safeguards against the implementation of a longer time period which may in fact be considered a denial of the student's right to education.

502 - Review and Reassessment

Evaluation is a necessary step in educational planning as it determines whether the student continues to require special education and related services, and because it helps determine the effectiveness of the education being provided to aid in future planning. In this section, a distinction is made between program review, which determines the effectiveness of the special education and related services set forth in the individually designed educational program in

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and related services.

503 - Certificates and Diplomas

(a) Each gifted and talented student who satisfies the requirements of the (name of state education agency) and/or the school district for graduation from the program in which he/she is enrolled, shall receive from the agency or the school district, a diploma (certificate) evidencing this satisfactory completion of the requirements. The requirements shall be consistent with and shall not require a higher standard than the standards for programs that are adopted by the (name of state education agency) and the standards called for in the student's individually designed educational program.

(b) No variation in the format or content of any diploma (certificate) awarded by the agency or school district to any gifted and talented student may exist unless:

(1) The district offers to non-gifted and talented students more

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meeting the gifted and talented student's needs and diagnostic reevaluation which determines the student's eligibility for special education and related services according to the law. The program must be reviewed annually; and the student must be reevaluated at least every three years. For the gifted and talented, effective evaluation is an ongoing continuous process. Based on the individual needs of the gifted and talented students, a total evaluation more frequently than every three years may be appropriate and, therefore, should be decided on a student-by-student basis. Responsibility for completing evaluations usually is assigned in a state's regulations/guidelines developed to facilitate the implementation of the law, and does not appear in the statute itself.

503 - Certificates and Diplomas

An accepted educational alternative in educating the gifted and talented is early admission to college. While graduation standards are the same for all students, consideration should be given to those gifted and talented students who are able to complete those standards sooner than their non-gifted and talented peers. Though in certain instances a gifted and talented student may simultaneously take college coursework and complete high school graduation requirements, very often a gifted and talented student will complete all high school graduation requirements one or more years earlier than his/her peers. The state and local district should be sensitive to the gifted and talented student's needs, and not rely on age alone for the awarding of a degree or diploma. However, state standards must be met in whatever type of curriculum and/or educational setting the gifted and talented student is enrolled.

than one type of diploma (certificate) and the format or content of each is determined by a program that has a significantly different curriculum than that of other programs in which other students in the district are enrolled; and

(2) The curriculum of the program in which the gifted and talented student was enrolled differs significantly from that of other programs in which other students in the district are enrolled.

504 - Least Restrictive Environment

Each school district shall insure that:

(a) To the maximum extent appropriate, gifted and talented students are educated with students who are not gifted and talented.

(b) Special education classes, separate schooling, or other removal of gifted and talented students from the regular educational environment occurs only when the nature or degree of the gift and/or talent is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

505 - Service Delivery Options

Each school district shall insure that alternative special education and related services are available as are necessary to meet the unique educational needs of gifted and talented students. Service delivery options shall include, but shall not be limited to, such alternative programs and services as learning centers, internships, mentorships, acceleration, enrichment classes, work experience, volunteer service, instruction in regular classes, resource rooms, itinerant instruction, special classes, special schools, and instruction in institutions, and

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504 - Least Restrictive Environment

For purposes of this subsection "supplementary aids and services" means those measures designed to modify the regular education program, including without limitation, curricular and methodological adaptations, supplementary materials for the gifted and talented student and consultant services to the teacher. Unless a gifted and talented student's individually designed educational program requires other arrangements, that student should be educated in the school he/she would normally attend if that student were not gifted and talented. For further commentary, refer to Section 5, subsection 501.

505 - Service Delivery Options

The most common service delivery options include, but are not limited to, such alternative programs and services as learning centers, internships, mentorships, acceleration, enrichment classes, work experience, volunteer service, instruction in regular classes, resource rooms, itinerant instruction, special classes, special schools, and instruction in institutions of higher education, and shall encompass preschool, elementary, secondary and career and vocational education as are necessary to meet the unique educational needs of gifted and talented students.

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shall encompass preschool, elementary, secondary and vocational education as are necessary to meet the unique educational needs of gifted and talented students.

(a) Each school district shall insure that gifted and talented students have available to them the variety of educational programs and services that the district makes available to non-gifted and talented students, including without limitation, art, music, physical education, industrial arts, consumer and homemaking education, vocational education, counseling, and social and health services.

(b) No school district shall deny any gifted and talented student receiving special education or related services the opportunity of participating in any academic, nonacademic, or extracurricular activity available to any non-gifted and talented student, solely on the basis that the student is receiving special education and related services for gifted and talented students.

(c) No school district may deny any gifted and talented student receiving special education and related services the opportunity of participating in any other special education program or receiving any other related service such as those for the handicapped, or other special or remedial programs, such as multilingual education programs or programs for culturally diverse, or for economically or socially underprivileged or deprived students, that would be available to him/her if he/she were not receiving special education and related services for the gifted and talented.

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In addition, a student's gifts and/or talents should not be the criteria for excluding that student from participating in school activities offered to the student population at large. Denial of participation for these reasons can in fact be considered discriminatory.

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506 - State Education Programs

If at any time the (name of state education agency) finds that a school district has failed to provide a free appropriate public education to any gifted and talented student entitled to receive the same from the school district, the (name of state education agency) may withhold all or any portion of the state aid to which the district is or may be entitled for the operation of all special education and related services until the district remedies its failure. Furthermore, the (name of state education agency) may provide the education directly whether or not it elects to withhold aid.

(a) The (name of state education agency) shall take no action pursuant to this subsection except after a public hearing is held with due process protections that establishes the failure of the school district to provide a free appropriate education to any gifted and talented student.

(b) If the (name of state education agency) acts pursuant to this section, it may, without limitation:

(1) Hire, employ, and direct special education teachers and any necessary supporting professional and other personnel.

(2) Incorporate such personnel into the affected school system.

(3) Procure and deploy such supplies, equipment, and facilities as may be necessary or appropriate.

(4) Furnish such administrative supervision and services as may be necessary or appropriate to make the program effective.

(5) Intervene in state institutions or facilities solely to guarantee or provide gifted and talented students therein their rights to

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506 - State Education Programs

This reinforces the state's responsibility for insuring the availability of special education and related services to meet the needs of gifted and talented students by authorizing the state to directly administer programs whenever any school district fails to do so. Provision of due process review of such state action is required prior to such sanction.

Whenever a state preempts a school district, it must take whatever action is necessary to provide appropriate education. The state may not exercise all of these duties at any one time. However, it must assess the extent to which such actions are necessary to protect the rights of the gifted and talented students and then act accordingly.

The authority to charge administrative costs is granted to the state education agency for the purpose of obtaining local education agency compliance. However, the state education agency is also charged with providing sufficient technical assistance to the local education agency to facilitate its coming into compliance with the law and providing an appropriate education to its gifted and talented students.

a free appropriate public education, except that no student shall be removed from the school district in which he would regularly be entitled to receive special education and related services without the consent of such student's parent or guardian.

(6) Take any other action to assure that gifted and talented students in the school district receive a free appropriate public education.

(c) Any costs incurred by the (name of state education agency) in administering subparts (a) and (b) of this subsection shall be direct charges against the school district and shall be paid thereby. If a school district resists timely payment, the (name of state education agency) may make payment and seek reimbursement by appropriate judicial proceedings against the school district or by deducting such charges from any other state aid that the agency distributes or is empowered to distribute to the district.

(d) During any time when the (name of state education agency) is providing special education and related services pursuant to this section, the (name of state education agency) shall provide technical assistance to the school district to assist it to assume or reassume its full responsibilities for the provision of special education and related services for gifted and talented students. The (name of state education agency) shall return responsibility to the school district as soon as the agency finds that the district is willing and able to fulfill its responsibilities pursuant to this Act.

SECTION 6: PROCEDURAL SAFEGUARDS

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506 cont'd - Comment completed.

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601 - State and School District Responsibilities

The (name of state education agency) and each school district public school, institution, or agency providing or required to provide special education and related services to gifted and talented students shall establish and maintain procedures to insure that gifted and talented students and their parents are guaranteed and receive procedural safeguards with respect to the provision of a free appropriate public education set forth in Sections 4 and 5 of this Act pertaining to the identification and delivery of services to gifted and talented students in addition to those safeguards set forth below.

602 - Confidentiality of Records

All personally identifiable information collected pursuant to the education of each gifted and talented student including without limitation assessment records and the individually designed educational program shall be stored, retrieved, and used in a manner that insures the confidentiality of the information and guarantees the right to privacy of the gifted and talented student and his/her parents.

(a) This subsection shall not prevent personnel providing special education or related services to the gifted and talented student from possession of copies of such records as long as the requirements of this subsection are met.

603 - Access to Records

The parents of a gifted and talented student shall be informed of their right to have access to the records and shall have the opportunity

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601 - State and School District Responsibilities

The rights of exceptional persons to the protection of due process of law has been affirmed by courts since the early 1970's (most notably in Pennsylvania Association for Retarded Children (PARC) v. Commonwealth of Pennsylvania, 1971, Mills v. Board of Education of the District of Columbia, 1972) and by the federal government since the passage of Public Law 93-380 (the Education Amendment of 1974). This Act requires due process procedures as a safeguard against non-service, mislabeling and misplacement of exceptional persons and to contribute to the delivery of the specialized services needed by persons with exceptional education needs.

602 - Confidentiality of Records

Section 438(a)(1)(A) of the Family Educational Rights and Privacy Act of 1974 (Buckley Amendment) states that:

> No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the educational records of their children. If any material or document, in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such materials. Each educational agency or instiution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

603 - Access to Records

This section places a responsibility on schools to help individuals and parents understand the contents of records kept by the schools. It is intended

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to inspect, review, and copy all relevant records with respect to the identification and assessment of delivery of services to the gifted and talented student and the provision of a free appropriate public education. The agency and school district shall interpret and explain the record upon request by a parent.

604 - Surrogate Parents

The (name of state education agency) shall insure that an individual is assigned to act as a surrogate for the parents of a gifted and talented student whenever the student is a ward of the state.

(a) The (name of state education agency) shall develop and apply a method for determining whether a student needs a surrogate parent and for assigning a surrogate parent to that student. It shall establish procedures for the selection of surrogates that will insure that individuals selected have the knowledge and skills to adequately represent the educational interests of the gifted and talented student and to insure against any conflicting interests.

(b) The surrogate parent may represent the gifted and talented student in all matters relating to the identification, assessment, delivery of services, and the provision of a free appropriate public education to the gifted and talented student.

(c) No surrogate may be held liable to the gifted and talented student whom he/she represents for taking or omitting to take any action in his/her capacity as surrogate if he/she has acted or omitted to act in good faith.

that these access rights be exercised. Often, records of a gifted and/or talented person are multiple and housed in various offices. It is important that schools identify for parents the location of all records so they may have access to the information used to make educational decisions on behalf of the gifted and talented student or themselves.

604 - Surrogate Parents

Surrogate parents are individuals selected to advocate on behalf of gifted and talented students for the sole purpose of making educational decision. Surrogates are expected to act in good faith toward the education of the gifted and/or talented student. Where a state has established an advocacy office for exceptional persons, it may be used to assess and ensure the protection and provision of advocacy for all exceptional persons, including the gifted and talented. A person assigned as a surrogate may not be an employee of a school, institution, or agency which is involved in the education of gifted and talented students. A person who otherwise qualifies to be a surrogate parent should not be an employee of the state education agency as this person is paid by this agency to serve in a surrogate capacity.

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605 - Notice and Consent

The school district shall give written notice to the parents of a gifted and talented student at least twenty (20) days before it:

(1) Proposes to initiate or change the identification, assessment, delivery of services or the provision of a free appropriate public education to the gifted and talented student; or

(2) Refuses to initiate or change the identification, assessment, delivery of services or the provision of a free appropriate public education to the student.

(a) The notice shall include:

(1) A full explanation of all of the procedural safeguards available to the parents and the gifted and talented student as set forth in this Act.

(2) A description of the action proposed or refused by the school district; an explanation of why the school district proposes or refused to take action; and a description of any options the school district considered and the reasons why those options were rejected.

(3) A description of each assessment procedure, test, record, or report the school district used as a basis for the proposal or refusal; and

(4) A description of any other factors which were relevant to the school district's proposal or refusal.

(b) The notice shall be:

(1) Written in language understandable to the general public.

(2) Provided in the native language of the parent or other mode

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605 - Notice and Consent

Parents must be notified of proposed action by schools to insure that they are involved in all critical decisions in the education of their child. The gifted and talented student and his/her parents should be told of their due process rights at the time of notification to alleviate any pressure to accept an educational alternative they feel is inappropriate. The information required to be provided to the parents is intended to enable them to understand what, how and why the school has arrived at its position.

Parents can genuinely express their approval and judge the fairness and appropriateness of the proposed action only if they are given complete information in language they understand. In those instances, where the language spoken is only oral, and not written (Navajo, etc.) then the district should provide an interpreter knowledgeable in special education and/or procedural safeguards to communicate with the parent.

of communication used by the parent.

(c) If the native language or other mode of communication of the parent is not a written language, the state or local education agency shall take steps to insure:

(1) That the notice is translated orally or by other means to the parent and where appropriate to the gifted and talented student in his/her native language or other mode of communication.

(2) That the parent understands the content of the notice.

(3) Written documentation exists to demonstrate evidence of meeting these requirements.

(d) The school district must obtain parental consent before:

(1) Conducting an individual assessment to determine a student's eligibility for special education and related services; and

(2) The initial provision of special education and related services to a gifted and talented student.

(e) For purposes of this section, the term "consent" means:

(1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his/her native language, or other mode of communication.

(2) The parent understands and agrees orally or in writing to the carrying out of the activity for which his/her consent is sought, and the consent describes that activity and lists any records which will be released, for what purpose and to whom they will be released.

(3) The parent understands that the granting of consent is voluntary on the part of the parent and may be withdrawn at any time.

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605 cont'd - Comment completed.

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606 - Independent Assessment

If a parent disagrees with the assessment obtained by the school district, the parent shall have the right to obtain an independent assessment of the student.

If the parent obtains an independent educational assessment by a qualified person(s), the results of the assessment must be considered by the school district in any decision made with respect to the provision of a free appropriate public education to the gifted and talented student, and may be presented as evidence at any hearing convened pursuant to the requirements of this Act regarding that gifted and talented student.

607 - Due Process Hearing and Review.

The parent, the gifted and talented student, or the agency may initiate an impartial due process hearing on any of the matters described in subsection 605. The hearing shall be conducted by an impartial hearing officer selected by the (name of state education agency). The hearing shall be conducted in the school district where the request originated and initiated within no more than ten (10) days after the request is filed.

(a) The school district or the state shall insure that not later than forty-five (45) days after the receipt of a request for a hearing:

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

(b) Any party aggrieved by the findings and decision in the hearing

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606 - Independent Assessment

In certain instances, parents may feel that an independent assessment of their child to determine giftedness and/or talent is appropriate if, in their judgment, the school district is not sensitive to the needs of gifted and talented children and youth, or if they disagree with results of an assessment performed by the school. As stated in the Act, the parents have the right to use this information as evidence at any hearing convened for the purpose of determining eligibility of a student to a gifted and talented program, or to exclude a student from such a program. Within reason, such evaluations must be made available at no cost to parents questioning a school district's evaluation, classification, or placement of the gifted and talented student.

607 - Due Process Hearing and Review

The basic intent of this procedure is to provide parents, students, and school districts with viable means to achieve the most equitable resolution of conflict. (See the state plan section of this document for further clarification.)

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may appeal to the (name of state education agency) for an administrative review pursuant to subsection 611 of this section.

(c) The (name of state education agency) shall insure that not later than thirty (30) days after the receipt of a request for a review:

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

(d) A hearing or reviewing officer may grant reasonable extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(e) Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and the gifted and talented student involved.

(f) This procedure does not preclude other attempts at reconciliation through informal means such as negotiation, mediation, or arbitration. However, these means may not be used to delay or deny the rights of parents and gifted and talented students to an impartial due process hearing set forth in this Act.

608 - Impartial Hearing Officer

A due process hearing may not be conducted by a person who is an employee of the school district or any school or agency involved in the education of the gifted and talented students or by any person having a personal or professional interest that may conflict with his/her objectivity in the hearing.

A person assigned as a hearing officer shall not be an employee of the (name of state education agency), as this person is paid to serve as

COMMENTS

608 - Impartial Hearing Officer

To assure impartiality, hearing officers should have no vested interest in the education of the gifted and/or talented student. For example, boards of education cannot be impartial hearing officers since employees of the boards are parties in the hearing. This section of the Act does not preclude any public school board of education from "review" but it is not appropriate for that school board to render an educational decision that would replace the rights of a gifted and/or talented student to an impartial hearing.

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a hearing officer.

609 - Hearing Rights

(a) Any party in due process hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of gifted and talented students.

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses.

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) days before the hearing.

(4) Obtain a written or electronic verbatim record of the hearing.

(5) Obtain written findings of Act and decisions.

(b) Parents involved in hearings must be given the right to :

(1) Have the gifted and talented student who is the subject of the hearing present; and

(2) Open the hearing to the public.

(c) The decision of the hearing officer is final unless appealed pursuant to subsection 611 of this section.

610 - Appeals

Any party aggrieved by the findings and decisions of the hearing may appeal within forty-five(45) days to the (name of state education agency), which shall conduct an impartial review. Within thirty (30) days after receipt of a request for a review, the conducting officer shall

COMMENTS

609 - Hearing Rights

The procedures included in this section of the Act are intended to provide both parties with the opportunity to reveal all information deemed necessary in order that each has the opportunity to adequately present its side without either party suffering unfair disadvantage.

Because in the eyes of law, the student in question is a ward of his/her parents, and due to the confidentiality of the information, the parents, not the schools, are the only ones which can allow the hearings to be public and/or that the student be present.

610 - Appeals

Litigation should be viewed as a final and extreme step to assure an appropriate education for any student, including those who are gifted and/or talented. Therefore, the review of the hearing officer's decisions is one more step provided to attempt to find a solution before resorting to the ordeal

STATUTE

make an independent decision. In reviewing the case, the officer shall examine the entire hearing record; insure that the hearing procedures were consistent with due process; seek additional evidence, if necessary; conduct additional hearings consistent with the requirements set forth in this section; and at his/her discretion, afford the parties an opportunity to make oral or written argument. The officer will then furnish a written copy of the findings and decisions to the parties. His/her decision is final unless appealed pursuant to subsection 612 of this section.

611 - Civil Actions: Nonexclusive Remedies

Any party aggrieved by the findings and decisions of any hearing and appeal may bring a civil action with respect to the complaint presented pursuant to this subsection in any state court of competent jurisdiction. In any action brought under this subsection, the court shall receive the records of the administrative proceedings, hear additional evidence at the request of either party, and basing its decision on the preponderance of the evidence, grant such relief as the court determines is appropriate.

A parent, gifted and talented student, or school district may bring any civil action, in addition to that provided for under this subsection to enforce their rights under this Act, including but not limited to, actions for mandamus, permanent or temporary injunction, temporary restraining orders, and damages.

612 - Educational Services Received During Hearings

During the pending of any due process hearing, appeal of a due process hearing, or civil action brought pursuant to this section, the

of judicial action.

611 - Civil Actions: Nonexclusive Remedies

A final alternative provided to parents by this Act is judicial. Parents may choose to use this option if they feel that a court of law which is not subject to the same pressures of the type they feel is experienced by the hearing and review officer.

612 - Educational Services Received During Hearings

See comment for Section 4, subsection 404.

provisions of Section 4, subsection 404 regarding the educational services received by the student shall apply.

SECTION 7: STATE ADMINISTRATION

701 - Establishment of Division

There is hereby established in the (name of state education agency) a Division of Education for Exceptional Students, hereafter referred to as "the Division" which shall be responsible for the education of both gifted and talented students and handicapped students in the state.

COMMENTS

701 - Establishment of Division

Administrative responsibilities for the education of gifted and talented students should reflect the total posture and philosophy of the state toward the education of exceptional children. Placement in one or the other agencies should not determine the importance or adversely effect the immediacy of providing total appropriate educational services for all gifted and/or talented students. No matter where the placement, the agency responsible for the administration of this program should serve as a vehicle for successful compliance with the law.

The option provided in this Act, which is the most common (twenty-eight states) reflects the exceptional child approach to the education of gifted and talented students. A state embracing this approach places the gifted and talented within the same administrative structure as other students with special needs. This alternative allows state appropriations and services to be shared by all exceptionalities. It is also the most administratively efficient and economical, as procedures, strategies,and other functions established for one population, may, in most cases, be utilized for all, alleviating the necessity for developing separate and distinct operations for the gifted and talented. However, some states,because of their political and philosophical platforms have chosen to plan the administration of gifted and talented programs in divisions or sections other than special education or exceptional children, i.e., curriculum, special projects, etc. and have experienced few administrative

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702 - Powers and Duties of the (name of state education agency)

The (name of state education agency) through the Division has the following powers, duties and responsibilities:

(1) In addition to all powers granted by (cite other enabling state legislation), it shall have the power to establish standards for all special education and related services provided or required to be provided by any school district, state or local public school, institution or agency to gifted and talented students.

(2) To exercise general supervision over all special education and related services provided to gifted and talented students as a means of fulfilling the requirements of this Act including, but not limited to, the special education and related services provided or required to be provided by any school district, state or local public school, institution, or agency.

(3) To require public schools, institutions, and agencies receiving state funds for special education and related services for gifted and talented students to establish cost accounting and reporting procedures, forms, schedules, rates, and audits in conformity with Division standards; and to make reports to the Division at such time, in such fashion and on such forms as the Division may require.

(4) To develop and recommend certification, licensing, registration, or similar qualification standards or requirements for all personnel providing or required to provide special education and related services to gifted and talented students in accordance with this Act.

COMMENTS

difficulties.

702 - Powers and Duties of the (name of state education agency)

This section authorizes the Division to provide and supervise the delivery of special education and related services to all gifted and talented students. Reason for placing this responsibility in the Division, Bureau, etc. which also assumes the responsibility for other students with special needs, are to centralize accountability, make the best use of resources, assure inclusion in the comprehensive state plan for the education of all children within the state, and to facilitate coordination among agencies. It should be noted that in some states, the state board of education, not the state education agency, sets standards for the state. The state education agency operates as an extension of the state board of education to facilitate those standards.

This section also allows the Division to provide technical assistance to local education agencies to insure the provision of appropriate education to gifted and talented students. In addition, it is recognized that many personnel beyond those needed for traditional education are serving gifted and/or talented students. Therefore, this section includes guidelines to insure that all such personnel are adequately trained and capable of meeting the needs of the gifted and talented. The state may also enter into reciprocal agreements with other states regarding certification standards.

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(5) To assist public and private colleges and universities in developing courses and programs designed to prepare their graduates to meet the special education and related services needs of gifted and talented students.

(6) To make and keep current a plan pursuant to subsection 705, for the implementation of this Act and to require school districts, state and local public schools, institutions and agencies providing or required to provide special education and related services according to this Act, to comply with this Act and with the plan, and in the case of school districts, with their applications adopted pursuant to Section 7.

(7) To provide technical assistance to school districts, state and local public schools, institutions, and agencies providing or required to provide special education and related services to gifted and talented students in the implementation of this Act.

(8) To collect, evaluate, develop, and disseminate research data and other information related to special equipment, materials, supplies, devices, and techniques for teaching gifted and talented students.

(9) To conduct or contract with any federal, state, or private agency for research and development projects designed to improve the quality of special education and related services or increase their efficiency.

(10) Recommend to (name of appropriate authority) the imposing of sanctions on noncomplying school districts, state and local public schools, institutions and agencies, including but not limited to the sanctions of withholding all or any portion of state aid, recouping state aid improperly

COMMENTS

702 cont'd - Comment completed.

paid by the state, making conditional payment of state aid, and requiring school districts, state and local public schools, institutions and agencies to take positive action or submit plans indicating the means by which they will correct and cure any default on their part to any provision of this Act.

(11) To receive and allocate federal and state funds for programs for gifted and talented students requiring special education and related services subject to the provisions of this Act.

(12) To employ and take other action consistent with state or federal law with respect to personnel necessary or useful in the administration of the Division's activities.

(13) To enter into agreements with school districts, state and local public schools, institutions and agencies, institutions of higher education, and individuals for the purpose of executing the Division's responsibilities under this Act.

(14) To develop public information programs regarding the nature and extent of special education and related service needs of gifted and talented students in the state and the availability of such education and services to meet those needs.

(15) To develop and recommend to the (name of appropriate authority) and the state legislature and any of its committees or commissions amendments to state law, changes in administrative practices and organization, and changes in the level, source, nature,and distribution of financial support from the state for special education and related services.

COMMENTS

702 cont'd - Comment completed.

STATUTE

(16) To recommend to the (name of appropriate authority) such rules and regulations and take any other action necessary or desirable to execute the Division's responsibilities under this Act or to assist school districts, state and local public schools, institutions,and agencies to execute their responsibilities under this Act.

(17) To conduct due process hearings or hear appeals brought pursuant to this Act concerning the provision of a free appropriate public education to gifted and talented students.

(18) To examine complaints concerning the failure of school districts, state and local public schools, institutions,and agencies to provide special education and related services to gifted and talented students.

703 - State Coordinator

There shall be in the Division a sufficient number of personnel to enable the (name of state education agency) to carry out its powers and duties under subsection 702 of this Act.

The (name of appropriate authority) upon the recommendation of the (title of chief state school officer) shall appoint a state coordinator for gifted and talented education who shall be appropriately qualified by reason of his/her education, training, and experience.

COMMENTS

703 - State Coordinator

If a state is seriously intent on implementing the law and providing all eligible gifted and/or talented students with appropriate special education and related services, it is crucial that a person responsible for those state-wide activities be appointed within the Division established in Section 702 of this Act. In 1971, U.S. Commissioner of Education, Sidney Marland, in his report to Congress on the "Education of Gifted and Talented Children," noted that only ten states had appointed a full-time person to coordinate those states' efforts in the education of their gifted and talented students. In a 1977 state survey sponsored by the USOE, that number had risen to thirty-five. From this latest survey, it is also evident that those states with a full-time gifted and talented coordinator, have made the most gains both financially and programmatically in providing educational services for those students. Therefore, the appointment of a person with appropriate training and expertise to coordinate a

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704 - Alternate: Advisory Council

There is hereby created within the state an Advisory Council for the Education of Gifted and Talented Students. The Council shall advise and consult with (name of appropriate authority) and (name of state education agency) and shall engage in such other activities as are hereafter set forth. The Council's membership shall comprise persons involved in or concerned with the education of gifted and talented students, who are not officers or employees of the (name of state education agency). Its members may be officers or employees of school districts, and should include at least one (1) person who is representative of each of the following groups: members of professions in which students' gifts and/or talents have been exhibited such as the arts and sciences, community organizations interested in the education of gifted and talented students,

COMMENTS

state's efforts for the gifted and talented is seen as necessary for a state to successfully implement and comply with the law.

States are cautioned against appointing a state coordinator for the gifted and talented with less than full-time (100%) responsibility, as often this person's remaining professional time is assigned to some other area of exceptionality or state education agency function. Such "time splits" tend to cause situations where the personnel involved do not have sufficient time to perform either task to the desired extent. In addition, it is presently difficult because of the lack of teacher training programs in the gifted and talented to find a person with expertise in gifted and talented education and another area of exceptionality, often resulting in assignment of this responsibility to persons with no training and expertise in the gifted and talented.

704 - Alternate: Advisory Council

An Advisory Council of this type assures that parents and other advocates for the gifted and talented help to formulate the state activities in the area of gifted and talented education. This Council will also be involved in the implementation of state efforts. To accomplish those activities, the Advisory Council will also assist the state in identifying areas of concern that, because of a lack of direct involvement, state level personnel may overlook. The Advisory Council is established independent of the state education agency as it is intended to represent the interests of gifted and talented students, not the agency responsible for their education. However, states retain the option of having the Council advise the state education agency rather than the state board of education or other governing body.

gifted and talented students, teachers of gifted and talented, parents of gifted and talented students, representatives of institutions of higher education offering programs in the education of gifted and talented students, school district education officials, and special education program administrators.

705 - State Plan

The (name of appropriate authority) through the Division shall make and keep current a plan for the implementation of this Act. The plan shall include, but not be limited to:

(1) Provisions for locating, assessing,and identifying students who are gifted and talented and in need of special education and related services according to the provisions of this Act.

(2) An inventory of the kinds and numbers of personnel, facilities, and services necessary to execute the provisions of this Act.

(3) Provisions for exercising general supervision over all special education and related services provided or required to be provided by all school districts, state and local public and private schools, institutions and agencies to gifted and talented students.

(4) Provisions for expending federal and state financial aid for the education of gifted and talented students in a manner consistent with the applicable federal or state law governing the receipt, expenditure, and accounting of that aid, including but not limited to Section 10 of this Act.

(5) Provisions for the implementation of Section 9 of this Act regarding personnel.

COMMENTS

705 - State Plan

A comprehensive state plan toward the education of gifted and talented students should represent the state's approach to the implementation of the law. In 1977, twenty-one states reported having a developed state plan for the gifted and talented. Upon investigation, however, none of those state plans contained all of the major elements included in the model law. In addition, none of those plans contained implementation strategies. Instead, they were simply plans to plan, and as such did not assist in the facilitation of state and local efforts in providing educational services to this population. (For detailed information concerning state plans for the gifted and talented, see the "Considerations in the Development of a Model State Plan Toward the Education of Gifted and Talented Students" section of this document.)

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(6) Provisions for making reports and keeping records to evidence compliance with the terms of this or other state or federal law affecting the education of gifted and talented students, including procedures to gather from school districts such data as are necessary for such purpose.

(7) Procedures for reasonable notice and opportunity for a hearing to be given to school districts, state and local public and private schools, institutions, and agencies before the Division or (name of appropriate authority) takes any final action under this Act or other applicable state or federal law with respect to them.

(8) Procedures for evaluating at least annually the effectiveness of special education and related services in meeting the educational needs of exceptional students, including without limitation, evaluating individualized education programs.

(9) Procedures for monitoring school districts, state and local public and private schools, institutions, and agencies with respect to their compliance or non-compliance with the provisions of this Act.

(10) The (name of appropriate authority) through the Division shall submit the plan to the Governor and the state legislature and make it available for public distribution no later than (day, month) of the year. Thereafter, amendments to or revisions of the plan shall be submitted to the Governor and the legislature and made available for public distribution at least thirty (30) days prior to the convening of each regular session of the legislature (or, if the legislature meets on a regular basis biannually only, by (day, month)). All such submissions, except for the initial submission of the plan, shall detail progress made

COMMENTS

705 cont'd - Comment completed.

STATUTE

in fulfilling the plan and in implementing the policy of this Act.

The (name of appropriate authority) through the Division shall provide the public an opportunity to review and comment on its annual plan before adopting it.

706 - Interstate Cooperation

The (name of state education agency) and any school district may enter into agreements with other school districts in other states or with other states to provide special education and related services to gifted and talented students provided that the provision of such special education and related services shall continue to be the responsibility of school districts in accordance with Section 8, subsection 801 of this Act.

Agreements made pursuant to this section shall include the provision of all special education and related services, the payment of the reasonable costs thereof, and the provision of transportation, lodging and food.

SECTION 8: SCHOOL DISTRICT ADMINISTRATION

801 - School District Responsibility

The school district in which the parent or guardian of any gifted

COMMENTS

706 - Interstate Cooperation

For various reasons, the resources and facilities for the gifted and talented of certain states are not adequate to meet the demonstrated need. Therefore, a state may choose to collaborate with states with contiguous borders in order to provide those resources. Such activity can be a very positve experience in promoting the education of gifted and talented children as well as allowing each cooperating state to provide those services, resources, etc. each is best able to offer.

However, there are certain caveats states embarking on such a venture should examine. Of primary concern is the mandatory/permissive legislation requirements of each state. If a state that mandates the education of the gifted and talented chooses to purchase or share services and resources with a state that does not mandate, the permissive state must provide those services and resources required by the mandated state. The reverse of this situation is also true. Therefore, states should be prepared to purchase those additional services through contractual agreements to assure that each gifted and talented student in this situation receives the education required according to the law of his/her state of residence.

801 - School District Responsibility

A local district is required by law to provide appropriate educational

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and talented student are legal residents or where gifted and talented students are present, is responsible for providing each gifted and talented student special education and related services and a free appropriate public education as required by this Act. No school district may deny any such student special education and related services and a free appropriate public education as required by this Act.

802 - Administrative Organization

Each school district shall appoint a coordinator who has primary responsibility for carrying out the requirements of this Act.

service to those gifted and talented children who are in that district. Though a local district may not identify the gifted and talented as a priority area of concern, there is no legal basis for that district to refuse to provide services as detailed in the law. If a district refuses to implement the law, then the state has the right to intercede until the local district comes into compliance.

State intercession in this regard should not be viewed as denial of local autonomy but rather as a means by which the state will assume that each of its citizens receives the right to an appropriate education as guaranteed by their state's constitution. A local district which chooses not to provide an appropriate education to any citizen is in essence denying those citizens of their rights. The state education agency as monitor in this instance has the obligation to assist the local district in providing those rights.

802 - Administrative Organization

The responsibilities and functions of the person are similar to those of the state coordinator, but with a major focus at the local level. Major activities for local involvement with the gifted and talented should come from local school district personnel, parents and other advocates. However, the state coordinator should also provide direction and input. The local coordinator must facilitate all local activities for the gifted and talented after receiving the input and direction. Though the local coordinator has no official link to the state education agency he/she should establish a working relationship with the state coordinator to facilitate the implementation of the law and assure the delivery of services to gifted and talented students. Though not an employee of

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803 - School District Application

On or before (day, month) each school district shall submit an application to the (name of state education agency) for state aid for the education of gifted and talented students. The application shall demonstrate how the school district complies with this Act and shall include but not be limited to:

(1) Assurances that gifted and talented students are receiving a free appropriate public education, including a description of the procedures by which gifted and talented students in the district are located, assessed, identified, and provided special education and related services and guaranteed procedural safeguards in accordance with this Act.

(2) Provisions to insure effective administration of special education and related services for gifted and talented students.

(3) Evidence of compliance with Section 9 regarding personnel.

(4) An inventory of the kinds and numbers of personnel, facilities, and services used and necessary but not available to execute the provisions of this Act.

(5) Report of the number and ages of gifted and talented students in the district; whether or not they are receiving special education or related services; the number, nature, and types of special education programs and related services being provided; and an identification of the administrative arrangements by which such programs and services are offered.

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the state education agency, the local coordinator has the responsibility to local constituents to work closely with the state education agency.

803 - School District Application

For a state to plan effectively, it must be informed of planning proposed by the local school districts. This section outlines those areas local school districts must address in submitting such plans to the state.

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(6) Assurance that the district has used state and federal financial aid for the education of gifted and talented students in a manner consistent with the applicable state and federal law governing the use of such aid, including but not limited to, assurance of compliance with Section 10 of this Act.

(7) A projection of budget expenses for the forthcoming fiscal year for the education of gifted and talented students as required by this Act.

Each school district shall provide the public an opportunity to review and comment on its annual application before submitting it to the (name of state education agency).

804 - Other Reporting Requirements

Each school district shall:

(a) Furnish such other information required by the (name of state education agency) as may be necessary to enable the agency to perform its duties under this Act, including but not limited to:

(1) A report on and accounting for the amount of federal, state and local funds that the district has received, spent, encumbered, or obligated during the immediately preceding fiscal year for the education of gifted and talented students according to applicable state reporting requirements.

(2) A report on the effectiveness of the school district's programs in meeting the needs of its gifted and talented students.

(b) Keep such records, and afford access to those records, as the (name of state education agency) requires to insure the correctness and

COMMENTS

804 - Other Reporting Requirements

No comment necessary.

verification of the information that the school district furnishes under this section.

(c) Make its application pursuant to subsection 803, all supporting documents, and all reports and records required by this section available to the public and inform the public of its rights of access for those documents, reports,and records.

805 - Powers of School Districts

In addition to the powers granted under (cite applicable state law) each school district shall have the power to:

(1) Establish, operate,and maintain all programs, classes, and education facilities necessary or desirable for the purposes of providing special education and related services to gifted and talented students.

(2) Make arrangements with and payments to public schools, institutions, and agencies for special education and related services to gifted and talented students.

(3) Receive, administer, and expend federal and state funds.

(4) Employ personnel necessary to administer the school district's programs for eligible gifted and talented students.

(5) Employ special education teachers and other personnel required to provide special education and related services to gifted and talented students.

(6) Acquire, hold, and convey real and personal property.

(7) Provide transportation for gifted and talented students in connection with any of its programs, classes, or services.

(8) Receive, administer, and expend the proceeds of any issue of

COMMENTS

805 - Powers of School Districts

No comment necessary.

school bonds or other bonds intended wholly or partly for its benefits.

(9) Apply for, accept, and use grants, gifts, or other assistance, and, if not contrary to law, comply with the conditions, if any, attached thereto.

(10) Participate in, and make its employees eligible to participate in, any retirement system, group insurance system, or other program of employee benefits, including salary schedules and other job related benefits.

(11) Develop, test, demonstrate, maintain, purchase, or otherwise acquire, store, produce (if not reasonably obtainable from commercial sources) and make available equipment, materials, and special supplies and devices for providing special education and related services to gifted and talented students.

(12) Collect, evaluate, develop and disseminate research data and other information related to special equipment, materials, supplies, devices, and techniques for teaching and training.

(13) Provide in-service training for teachers of gifted and talented students and other persons requiring special skills or understanding in connection with providing special education and related services to gifted and talented students.

(14) Do such things as are necessary and incidental or desirable for the execution of any of the foregoing and any other powers conferred upon school districts by this Act.

COMMENTS

805 cont'd - No comment necessary.

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SECTION 9: PERSONNEL

901 - Employment

The (name of state education agency) and each school district shall hire and supervise qualified personnel necessary to carry out the purposes of this Act.

(a) Neither the (name of state education agency) nor any school district shall hire any person who has not met the (name of state education agency) approved or recognized certification, licensing, registration, or similar qualification requirements applicable to the professional specialities of the job except that:

(1) The (name of appropriate authority) shall adopt regulations authorizing local school districts to employ selected non-certificated personnel to provide instructional services in the individual's field of speciality or to establish a category of certification for tradesmen, artists, and other master instructors who may provide appropriate instruction to gifted and talented students.

(b) Standards governing the qualifications of personnel delivering special education and related services to gifted and talented students shall be jointly promulgated by the (name of appropriate authority) and (name of governing body of state institutions of higher education).

COMMENTS

901 - Employment

At present, few states provide teacher certification in the area of gifted and talented. However, states that have established certification have, out of necessity, employed flexible standards. The two most common approaches employed by states are the accumulation of university course work credit in a state institution of higher education and the accumulation of credit hours through on-site in-service training sessions offered by the state education agency.

In addition, many states have established certification reciprocity agreements with other states. This approach is most helpful in assuring that personnel trained in one state but seeking employment in another will be able to receive immediate conditional certification. Even with reciprocity agreements, certain states may require additional course work in order to satisfy specific state requirements.

As the education of gifted and talented students embraces many different program areas and components, personnel trained in the education of these students who are qualified for the more traditionally academic, often do not have qualifications in less academic areas. Therefore, states should develop guidelines that would allow persons not certified in traditionally academic areas but who have expertise in speciality areas to receive (special) certification in those areas. Such procedures will allow the state to offer more comprehensive educational programs to gifted and talented students.

State certification standards should be developed by the state education agency in conjunction with state institutions of higher education to assure

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902 - Comprehensive System of Personnel Development

(a) The (name of state education agency) and each school district shall develop and implement a comprehensive system of personnel development which shall include at least the following:

(1) In-service training of general and special education administrative, instructional, related services and support personnel, parents, volunteers, hearing officers, paraprofessionals and surrogate parents based on assessed needs of personnel relative to the implementation of this Act.

(2) Procedures to insure that all personnel necessary to carry out the purposes of this Act are qualified as defined in subsection 901.

(3) Documentation that activities sufficient to carry out the personnel development plan are scheduled.

(4) Procedures for acquiring and disseminating to teachers and administrators of programs for gifted and talented students significant information derived from educational research, demonstration, and similar projects.

(5) Procedures for evaluating the effectiveness of personnel development activities.

(b) The (name of state education agency) and each school district must insure that all public and private institutions of higher education and other agencies and organizations (including professional, parent, and gifted and talented advocacy organizations) in the state which have

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that teachers trained in those institutions are receiving instruction which will qualify them for employment in state supported schools and assuring that there will be a supply of qualified personnel to fill those positions.

902 - Comprehensive System of Personnel Development

For more information regarding this section of the law, refer to Section 5 of the "Considerations in the Development of a Model State Plan" portion of this document.

an interest in the preparation of personnel for the education of gifted and talented students, have an opportunity to participate fully in the development, review,and annual updating of the comprehensive system of personnel development.

903 - Training Options and Incentives

The state education agency and each school district, in conformance with the state's comprhensive system of personnel development shall provide, approve, or cause to be provided the following:

(a) The use of incentives that insure participation by general and special education administrative, instructional, related,and support personnel, including but not limited to release time, payment for participation, options for academic credit, salary step credit, certification renewal, or updating professional skills.

(b) Options to assist personnel in developing and improving skills required in order for them to carry out the policies of this Act, including but not limited to, college courses, workshops, institutions, meetings, membership in professional organizations, and attendance at professional conferences.

SECTION 10: FINANCE

1001 - State Aid to be Provided

The state shall provide financial aid in each school year to school districts and for the special education and related services that they provide to gifted and talented students. Such aid shall be determined and allocated in accordance with this section and the rules and regulations of the (name of state education agency).

COMMENTS

903 - Training Options and Incentives

It is the responsibility of the state education agency to coordinate available training resources to assure that each gifted and talented student within the state receives an appropriate education. Considering the diverse educational needs of students in the area of gifted and talented, there are in many instances an insufficient number of qualified persons to deliver services to meet those needs. The use of non-special educators to fill this demand should be considered and recruiting and training strategies directed to those personnel devised.

Strategies for implementing these activities may be found in the "Consideration for Developing a Model State Plan for the Education of Gifted and Talented Students" section of this document.

1001 - State Aid to be Provided

Because of the variety of educational program options available for gifted and talented students, state laws regulating financing for the education of gifted and talented students must be broad. However, for accountability purposes, financing should also be directly related to an approved plan. The

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1002 - Amounts of Aid

For purposes of entitlement to state aid gifted and talented students shall be counted in the same manner as non-gifted and talented students (per pupil aid shall be determined on the same basis as for non-gifted and talented students pursuant to (cite appropriate section of state law)). In addition to the state aid claimed and paid pursuant to this subsection, any school district that has maintained an approved program of education for gifted and talented students during any school year shall be entitled to and receive reimbursement from the state for the excess cost of educating each gifted and talented student. Excess costs shall be determined in the following manner:

(a) Add all expenditures the school district made during the preceding school year, except capital outlay and debt service.

(1) For elementary and secondary school students, if the gifted and talented person is an elementary or secondary student; or

COMMENTS

plan should address at least the following:

- instructional services
- administration
- transportation
- facilities
- personnel

Excess costs necessary to educate a gifted and talented student should be borne by the state. However, the local district of residence is required to assume those costs for the gifted and talented student equal to that assumed for non-gifted and talented students.

1002 - Amounts of Aid

No comment necessary.

STATUTE

(2) For preschool and vocational school students, if the gifted and talented person is a preschool or vocational school student.

(b) From this amount, subtract amounts from state and local funds which the district spent in the preceding school year for programs for gifted and talented students in elementary and secondary, preschool, or vocational school programs respectively.

(c) Divide the amount remaining under subparagraph (b) of this section by the average number of all students enrolled in the school district in the preceding school year.

(1) In its elementary and secondary schools, if the gifted and talented person is an elementary or secondary school student; or

(2) In its preschool and vocational school program, if the gifted and talented person is a preschool or vocational school student.

(d) Divide the amount the district spent in the preceding school year for programs for gifted and talented students in elementary and secondary, preschool or vocational programs respecitvely by the average number of gifted and talented students enrolled in the district's gifted and talented special education programs in the preceding school year.

(1) In its elementary and secondary schools, if the gifted and talented person is an elementary or secondary school student; or

(2) In its preschool and vocational school programs, if the gifted and talented person is a preschool or vocational school student.

(e) Subtract the amount obtained under subparagraph (d) of this section from the amount obtained under subparagraph (c) of this section.

COMMENTS

1002 cont'd. - No comment necessary.

STATUTE

1003 - Apportionment of Aid

If any of the special education or related services aided pursuant to this section are provided partly by one school district and partly by another such district, and if there is no valid agreement about which one of the districts is the proper claimant for all the aid in question, each such district shall be entitled to claim and receive a proportionate share of state aid in accordance with its actual assumption of costs. The (name of state education agency) shall provide for the calculation and apportionment of state aid in cases covered by this subsection.

1004 - State Agency Budget

The (name of state education agency) annually shall submit to the (name of appropriate state authority) a request for operating funds in an amount sufficient to enable it to perform all of the duties required of it by this Act, including but not limited to the following:

(a) Paying all school districts all excess costs of providing special education and related services to gifted and talented students.

(b) Enabling the (name of state education agency) to make grants, traineeships, payments, or other awards to individuals, agencies,or other entities as a result of activities conducted directly by the state or through contracts, agreements, or other arrangements made in the course of fulfilling its responsibilities under this Act.

(c) Assisting the (name of state education agency) in carrying out its own responsibilities under Section 7 of this Act.

COMMENTS

1003 - Apportionment of Aid

No comment necessary.

1004 - State Agency Budget

No comment necessary.

STATUTE

SECTION 11: SEVERABILITY OF SECTIONS

If any section, subsection, paragraph, sentence, or any other part of this Act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined to the section, subsection, paragraph, sentence or any other part of this Act directly involved in the controversy in which said judgment shall have been rendered.

SECTION 12: EMERGENCY CLAUSE

Because an emergency exists, this Act takes effect on (date, year).

COMMENTS

SECTION 11: SEVERABILITY OF SECTIONS

No comment necessary.

SECTION 12: EMERGENCY CLAUSE

This section is included so that existing constraints that might delay the enactment of the law will be waived.

CONSIDERATIONS IN THE DEVELOPMENT OF A MODEL STATE PLAN TOWARD THE EDUCATION OF GIFTED AND TALENTED STUDENTS

SECTION 1: RIGHT TO EDUCATION

1.1 PLAN ELEMENT: RIGHT TO EDUCATION PROVISIONS

The state plan should describe procedures for providing the right to education to all gifted and talented students in the state.

Plan Content Considerations

A. To insure that all appropriate persons and agencies within the state are apprised of the right of gifted and talented students to equal educational opportunities, the state plan should describe activities that may be undertaken by implementors to disseminate multilingual copies of that section of the law which sets forth the right to education for gifted and talented students to all local education agencies, intermediate education units,and other appropriate target groups. Suggestions for the examination of existing channels and procedures for information dissemination should also be included for their possible use in the distribution of policy information concerning the gifted and talented.

> COMMENT: In many states, the dissemination of this type of information by the state education agency is an established on-going activity. Where this occurs, specific information concerning the gifted and talented can be designed to accomplish this function. The benefits of the approach would be the reinforcement of state procedures and a reduction of the paperwork required to initiate and maintain an activity of this nature. If such a function is not currently undertaken by the state education agency, the dissemination strategies in the identification and other sections of this document may be helpful.

B. The plan should also include guidelines for use in the development of regulations detailing procedures that local education agencies and intermediate education units may utilize to comply with the state law. In addition, criteria for implementors to consider in the establishment of an interagency council comprised of state and local education and related agencies to monitor and

assist in the provision of a free appropriate public education for all gifted and talented students within the state should also be included in the state plan.

> COMMENT: Certain state procedures may require that the state board of education develop these regulations itself using the state education agency as a consulting body. Whatever the procedure, the maximum time allotted for local education agencies to comply should be one year. While states may shorten this time period, any longer would be in effect a denial of the right to education.
>
> Consideration should also be given to the composition of any existing advisory council to insure representation by those groups necessary to promote the education of the gifted and talented within the state.

C. To further facilitate activities that will accomplish appropriate education for the gifted and talented and to assign agency responsibilities for undertaking those activities, the plan should also include guidelines for establishing a process that would detail those activities and responsibilities. That process should address at least the following:

- a timetable for implementing a free appropriate education for all gifted and talented children and youth;
- the number and types of personnel who will service these children;
- the numbers and kinds of gifted and talented children to be served;
- procedures to identify, locate, and evaluate those children;
- inservice training needed and provided;
- a description of all programs and services provided;
- a summary of fiscal and other material resources allocated to meet the needs of such children.

COMMENT: The process must be developed according to the requirements of state law or regulations. Currently, twenty-eight states include gifted and talented under the definition of exceptional. It is also recognized that many of the administrative procedures for the gifted and talented are the same for handicapped children. Therefore, a unified nonduplicative local education agency plan for all exceptional children may be preferred.

1.2 PLAN ELEMENT: METHODS FOR IMPLEMENTATION

The plan should describe methods which would assure implementation of the law.

Plan Content Considerations

A. To expedite the process for providing the right to education to all gifted and talented students within the state and to assist implementors in undertaking those methods, the state plan should include procedures for coordinating and integrating federal programs in the state for the gifted and talented as they relate to the law. If the law is to be effective and have the intended impact and results, it is crucial that the general assembly provide sufficient monies for its implementation. Therefore, the state plan should also include strategies implementors may consider when requesting monies from this body.

COMMENT: Title IX, The Gifted and Talented Children's Act of 1978, of P.L. 95-561, specifies that 75% of the federal appropriations under this law must be awarded to all states and 90% of their total award must in turn go to local districts. A similar flow-through provision is included in Title IV, Part C, which is often used to support state activities for the gifted and talented.

B. With more federal emphasis on the gifted and talented being placed in the states and local district, it is important that state programs for these students be designed to meet minimum federal standards to insure that state and local districts qualify for federal support which will in turn assist in meeting the requirement of the state law. However, it is crucial that the level of

state funding must always be sufficient to insure a free provision of education for the gifted and talented in the state when federal monies are not available. To help determine the effectiveness of the law, it is necessary to ascertain the progress being made to meet personnel service and facility needs. Therefore, the plan should describe activities implementors may undertake to monitor that progress.

> COMMENT: If there is difficulty in implementing the law, efficient and thorough monitoring should be able to determine why these problems exist. Monitoring is usually the responsibility of the state education agency. Different state agencies use different approaches to monitoring, with the most common being on-site visits by state education agency staff and needs assessment formulated by the state and implemented by intermediate and/or local education agencies who in turn report the findings to the state.
>
> Data collected by monitoring assists in determining the staff resource and fiscal requirements of the state in the implementation of the law and the provision of the right to education for all gifted and talented children and youth.

SECTION 2: IDENTIFICATION OF* GIFTED AND TALENTED CHILDREN

*For the purpose of this document, identification is a process that includes screening, referral, and assessment which culminate in the determination of eligibility for special education and related services for the gifted and talented.+

2.1 PLAN ELEMENT: SCREENING

Developers of the state plan should describe how the state intends to conduct or is currently conducting their state-wide screening program for gifted and talented students.

Plan Content Considerations

This section of the state plan should list and describe the elements of the screening process. Inclusion of at least the following information should be considered:

- state and local responsibilities
- health assessments
- reports/records review
- group educational achievement tests

+Screening: Refers to the process of selection by elimination of potential candidates for gifted and talented programs who are then referred for individual assessment and determination of eligibility for special education and related services.

Referral: A referral is a request for assessment of an individual's eligibility for special education and related services as a gifted and talented person.

Assessment: Refers to those procedures, methods, techniques and measures used to determine whether a child is gifted and talented according to state and local criteria and eligible for special education and related services.

- visual, auditory, language,and motor functioning assessments
- solicitation of information from parents

COMMENTS; Local education agencies may wish to appoint a task force of representatives from various education and education related agencies such as directors of programs for exceptional children, community day care representatives, civic clubs, parents, gifted and talented advocate groups, churches, and legislators, to determine the number of gifted and talented children 0-5 not enrolled in the program.

2.2 PLAN ELEMENT: REFERRAL

The plan should contain a description of referral procedures used in the identification of gifted and talented students, including source of referral, content, and review.

Plan Content Considerations

A. Referral Source. This section of the state plan should address the solicitation of referrals for assessment of gifted and talented students for possible inclusion into programs. Referral from at least the following sources should be considered.

- parents
- physicians
- teachers and other school personnel
- health departments
- mental health centers
- juvenile court
- department of social services
- day care and preschools
- student self-referral

COMMENT: Encouraging referrals from all sources will help insure that no child is overlooked who may be gifted and in need of special education.

B. Referral Content. In addition to sources of referral, the plan should describe the information collected on each suspected gifted and talented student, including where appropriate:

- child's personal identifying information;
- previous assessment results;
- previous services provided to the child, and results of such intervention;
- release of information forms;
- a description of any current services being provided to the child;
- evidence that the parents have been consulted about the child's special needs and have given consent for assessment;
- screening results;
- name of referring agent.

COMMENT: The content areas listed here help to insure that each child receives a comprehensive assessment. Exclusion of one or more of these areas may prolong the assessment process and impede accountability, thus increasing the risk that an appropriate education not be delivered.

C. Referral Review. A review of referrals is a common and successful procedure used to determine completeness and accuracy of information and to decide destination and future action required. To assist implementation with this procedure, the state plan should include guidelines for designating the following types of personnel to conduct one or more of the referral reviews. This section of the state plan should also describe how additional information is solicited

and the effect of this procedure on the identification process.

- administrators or coordinators of special education services
- referring person
- teachers
- principals
- school psychologists, counselors
- multilingual/multicultural education specialists
- social workers

COMMENT: "Destination" here means the appropriate person or agency necessary to complete the next phase in the identification process, i.e., assessment to determine eligibility and need for special education. Each local education agency must designate one of the listed personnel to be responsible for receiving referrals. This may be done on a building or district-wide basis. In the former instance, it is common practice for a principal, as administrative head of his school, to review referrals, sign or initial forms and forward forms to a central office staff for action. This step insures not only that the principal is aware of the needs of his students, but enables him to follow up on resources requested from district staff, and to more effectively carry out his/her administrative responsibilities.

2.3 PLAN ELEMENT: GENERAL ASSESSMENT GUIDELINES

The plan should include guidelines implementors may follow to insure that (a) each child and family receives protection in assessment procedures; (b) each child receives a non-discriminatory assessment; (c) each child receives a full assessment of suspected gifts and/or talents; and (d) each child receives a comprehensive assessment in other related areas where appropriate.

Plan Content Considerations

A. Protection in Assessment Procedures. In addition to procedures described in the procedural safeguards section of this document, consideration should also be given to providing assurances that instruments and other assess-

ment materials are:

- provided and administered in the child's native language;
- validated for the specific purpose for which they are used;
- administered by trained personnel in conformance with instruction provided by the provider.

COMMENT: It is generally agreed and supported by research that the concept of gifted and talented embraces all ages, cultures, and socio-economic environments, as well as many other areas of exceptionality. Therefore, consideration must be given to those variables in the selection of screening and assessment measures to be used with this population to assure that no gifted and talented child is excluded because attention was not given to these variables or because of faulty instrument validity or examiner reliability. The selection of assessment personnel must coincide with the personnel requirements of state statute, regulations, or other policy.

In addition, the state board of education, state education agency or local education agency may choose to establish timelines between notification and assessment. Such a timeline assists data management and affords parents an opportunity to question, challenge or obtain further information on the assessment procedure, if desired. While there is no universal formula, thirty days seems to be considered a reasonable maximum time frame within which notification can take place.

B. Non-discriminatory Assessment. Another consideration in the development of the state plan is the description of a process for gathering information which will contribute to the decision of a child's eligibility and programming in light of the child's abilities. Sources of this information should include the following:

- parents
- teachers

- peers
- psychologists
- social workers
- others, as appropriate

COMMENT: In certain instances, depending on the child, the situation or the ability area, a gifted and talented child will not demonstrate unusual ability in his/her school environment. Giftedness may be witnessed in less formalized settings such as the home or peer group activities. Therefore, school district personnel must survey those individuals who have frequent opportunities to observe the child in non-school settings to gather all possible data which may support initial suspicions concerning the child's gifts and/or talents.

Included within this section of the plan should also be guidelines for the development of insurances that procedures concerning testing and evaluation materials used for the purposes of assessment and placement of gifted and talented students are selected and administered so as not to be racially or culturally discriminatory. In this instance, non-discrimination also extends to the selection of tests to ensure that when administered to a gifted and talented student with impaired sensory, manual or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure other than reflecting a child's impaired sensory, manual or speaking skills. In addition, the plan should also describe those processes that will insure that no single procedure is used as the sole criterion for determining an appropriate educational program for a gifted and talented student, and that evaluation is conducted by a multidisciplinary team or group of persons, including at least one specialist with knowledge in the area of gifted and talented.

COMMENT: Implementation of this strategy will include students who are both gifted and handicapped, and who because of their dual or multiple exceptionality, are often neglected or overlooked in the provision of appropriate educational services for the gifted and talented. Commonly, these children are placed in deficit-oriented programs where major emphasis is given to their weakness, while their strength is ignored. If a district is sensitive to the needs of this population, and accurately assesses their present level of functioning in all exceptionality areas, gifted handicapped children are assured of receiving appropriate accommodations in all areas of need.

This assurance may presently be in place in certain states for other populations, thus eliminating the necessity for developing a separate implementation procedure for the gifted and talented. Incorporating the gifted and talented into the existing mechanism is encouraged. However, care should be taken that existing procedures are sensitive to the gifted and talented. If after investigation, it is determined that this population is excluded, appropriate components to accommodate the gifted and talented should be added.

C. Assessment of All Areas of Gifts and Talents. Children may demonstrate their gifts and talents in a number of distinct ways. Therefore, the state plan should describe methods and procedures implementors may use to insure that the child is assessed in all areas relating to the suspected gifts and talents.

COMMENTS: As previously defined, the concept of gifted and talented embraces a number of distinct ability areas. A child identified as gifted and talented may excel in one or more of these areas, requiring comprehensive assessment in all suspected areas, as a safeguard against exclusion.

D. Assessment of Related Areas. In addition to a student's gifts and talents, assessment in other related areas should also be undertaken by implementors if comprehensive assessment is to be accomplished. Therefore, consideration should be given to the inclusion of guidelines to accomplish that activity where appropriate in the following areas:

- health
- vision and hearing

- emotional status
- communication status
- motor abilities

COMMENT: No comment necessary.

It is equally important that the state plan include a methodology that will enable implementors to select and administer those instruments and measures necessary to determine all of the unique educational needs of each gifted and talented student. Therefore, it may be necessary to assess the student in other areas which may reveal unique educational needs to include, but not be limited to, intellectual, cultural, environmental, social and academic. The state plan should also set forth criteria that assists in determining when assessment of related areas should take place.

COMMENT: The state education agency should not endorse specific instruments for use in the identification and evaluation of gifted and talented children. However, to insure that no gifted and talented child will be denied the benefits of accurate assessment and appropriate educational services, it must require that local education agencies use the types of instruments that meet established criteria.

2.4 PLAN ELEMENT: SELECTION OF ASSESSMENT MEASURES

State plan developers should also be concerned with the selection of assessment measures to be used with gifted and talented students.

Plan Content Considerations

In the education of gifted and talented students, the selection and administration of tests to be used in the identification process must be carefully considered. As such, the plan should describe how the following components are used in the selection of assessment measures:

- age level of child
- practicality of administration
- determination/selection of appropriate personnel
- validity of testing procedures

Therefore, the state plan should provide criteria to be used in their selection that will insure that when a test is administered to a child with impaired sensory, manual or speaking skills, the test results accurately reflect the child's aptitude or achievement level rather than reflecting the child's impaired sensory, manual or speaking skills, except where those skills are the factor which the test purports to measure.

COMMENT: No comment necessary.

2.5 PLAN ELEMENT: ASSESSMENT METHODS

The plan should include a listing of the types of instruments and methods that may be used in the identification of gifted and talented students, as well as guidelines for their administration. Implementor may wish to consider the following:

Formal

- questionnaires
- performance tests
- group and individual intelligence tests
- non-verbal intelligence tests
- achievement tests
  - norm referenced
  - criterion referenced
- aptitude tests
- developmental tests

- social maturity/adaptive behavior tests
- creativity

COMMENT: The state education agency should develop and disseminate to local education agencies criteria for use in the selection of assessment instruments. The state education agency may choose to recommend specific instruments for local education agencies to use which meet the requirements set forth in the established criteria, to assist local districts in instrument selection.

Informal

- differential criterion for diverse population
- nomination by parents, peers, teachers, self
- interviews
- behavioral checklists
- observation, structured and unstructured
- written and performance tests
- auditions
- anecdotal records, review

COMMENT: The gifts and talents which may be manifest, are so diverse that an array of methods is necessary to identify all gifted and talented children.

2.6 PLAN ELEMENT: ELIGIBILITY CRITERIA

The state plan should include established criteria to be used in the identification of gifted and talented students, and determine their eligibility for special education and related services.

Plan Content Considerations

As previously mentioned, no single criterion should be used to determine a student's eligibility for appropriate educational programming. Therefore, it is advisable for the state plan to include multiple eligibility criteria. Guidelines for use in determining the minimum number of criteria required for a

student to be considered eligible for program placement should also be considered. Eligibility criteria for consideration should include at least the following:

- superior ability on an individual intelligence test;
- superior ability on an aptitude test;
- superior ability in one or more content areas as indicated in standardized achievement tests;
- superior ability in one or more curricular content areas as indicated by demonstrated skills and/or grades;
- recommendation that the student may be a potential successful candidate for placement in a program for the gifted and talented by one or more of the following:
  - school personnel
  - peers
  - parent
  - self
- selection by appropriate personnel or recognized professionals in the field during completion in the areas of visual and performing arts;
- superior ability in divergent thinking or leadership as indicated by test scores, past endeavors or demonstrated skills.

COMMENTS: Criteria mentioned in this strategy should be developed from the definition of the gifted and talented found in Section 3, subsection 311.

States may choose to place eligibility criteria for use in the identification and assessment of gifted and talented students in their rules, regulations or guidelines, as opposed to the state plan. In certain states, the state board of education, not the state education agency, has the authority for establishing this criteria.

2.7 PLAN ELEMENT: CENSUS

The state plan should include a description of the census used to count the number of gifted and talented students within the state.

Plan Content Considerations

To determine the number of gifted and talented students within the state, the state plan should describe a process for conducting an on-going census to determine the number of gifted and talented students between the ages of 3-18 years enrolled in regular classes, special education classes, and pre-school programs in public schools. In addition, the plan should also include a separate process for use in reporting the number of gifted and talented students identified and served in the annual census.

COMMENT: The age ranges for the census may be modified by states as desired. The approach here was to require a census which not only provided a state count of children currently being served in gifted and talented programs but one which could be useful in planning for future needs. It is for this reason that an estimate of pre-school gifted and talented children and gifted and talented students in non-public schools are included in the census. To the extent that these students become the responsibility of the education agency, planning for future staff, facility, program and financial needs must take place.

2.8 PLAN ELEMENT: DISSEMINATION OF INFORMATION

The state plan should describe how information about the identification of gifted and talented students is disseminated to all agencies and individuals in the state who have access to children to help insure that all children suspected of being gifted and talented, are identified.

Plan Content Considerations

In order to accomplish comprehensive dissemination about the identification of gifted and talented students, the state education agency should describe the following in the state plan:

- content of information disseminated, i.e., definition of gifted and talented, a description of the identification process, state and local contact people;
- recipients of information, i.e., educators, parents, private and public agencies, including advocacy and professional organizations;
- methods of dissemination, i.e., pictorial literature (newsletters, factsheets, flyers), inservice workshops, communication with private organizations concerned with the gifted-handicapped, media exposure (television, radio, newspapers), person-to-person contact.

Because special interest groups are often overlooked in dissemination activities, the state plan should describe special activities that will insure that large audiences receive the appropriate information. Developers of the state plan should consider at least the following groups in special dissemination activities:

- culturally different, i.e., American Indian, Hispanic, Black, etc.
- urban/rural

- migrant
- bilingual

COMMENT: A number of state education agencies have developed successful strategies and techniques to accomplish the dissemination of information detailed in this model. Therefore, a listing of those strategies and techniques is included here to assist those state education agencies that either have not utilized dissemination activities of this kind, or to supplement those who feel that their existing processes need revision or expansion.

SECTION 3: PROCEDURAL SAFEGUARDS

3.1 PLAN ELEMENT: PARENTAL NOTIFICATION

The plan should describe procedures to insure that parents or guardians of each gifted and talented student are notified prior to the initiation, change, or refusal to initiate or change the identification, evaluation or services delivered to the child by the local education agency.

Plant Content Considefations

A. Developers of the state plan should include procedures implementors may follow to provide written notification to parents or guardians of each child identified as gifted and talented of the intent or refusal to initiate or change the identification, evaluation or services delivered to the child. The notice should be in the primary language of the home and include at least the following types of information:

- a full explanation of all available procedural safeguards, including the right to independent evaluation, the right to administrative review and due process hearings, confidentiality of information, and parent participation in the development of IEPs;
- a description of the action proposed or refused by the local education agency;
- a description of each evaluation procedure, test, record or report the local education agency uses as a basis for the action taken;
- a description of any other factors which are relevant to the agency's action.

COMMENT: In the eyes of the law, parents and the state have co-equal interest in the education of the child. The state has a constitutional obligation to provide education; the parents the right to exercise their responsibility concerning the education of their child. Therefore, when the state proposes changes that do not significantly or substantively affect the education of the child, it must notify parents. To require consent for minor changes would moot the intent of the law by giving parents responsibility in excess of that of the state. However, when a major change is proposed, such as one that may result in a child's removal from the standard education program and being set apart from his peers, then the very enormity and seriousness of the consequence demands not only parental notification but parental consent.

Only when parents are fully informed by the school of all factors relevant to the educational decisions are they able to exercise their role as partners in the child's education. Though parental consent is not required, their right to challenge those actions proposed in the notice is not precluded. Therefore, it is incumbent upon the state or local district to inform parents of those challenge procedures available to them by law.

B. An additional safeguard is that of maintaining on file written evidence that the parent or guardian of the child understands the communication included in the notification. Therefore, the state plan should include procedures implementors may follow to obtain this information.

COMMENT: Parents' signatures on a statement, or a log of telephone conversations maintained by the local education agency, certifying their understanding of the notice are two alternative procedures which will satisfy this requirement. Such activities are necessary to protect the rights of those whose primary language is other than English or who for whatever reason cannot react to or understand written communications. Policies need to be developed setting forth how the native language or mode of communication will be determined.

3.2 PLAN ELEMENT: DISAGREEMENT PROCEDURES

The state plan should describe procedures implementors may follow when a disagreement arises between parents and the school concerning the identification, evaluation, or placement of any gifted and talented student.

Plan Content Considerations

A. As a possible safeguard against disagreements arising between the parents or guardians of gifted and talented students concerning identification, evaluation or placement, it is necessary to obtain the written consent of each parent or guardian before:

- conducting placement evaluation to determine eligibility when any test or measure is used that is not a regular part of the general educational program such as individually administered intelligence tests;
- initial placement of a gifted and talented child in a program providing special education and related services.

Therefore, developers of the state plan should include procedures in the plan implementors may follow to obtain this written consent.

COMMENT: See comment for 3.1.

B. In the event a disagreement arises, additional procedures should be established that implementors may follow to assure that parents or guardians will obtain an administrative review and impartial due process hearing to include a state education agency review of the hearing over any matter relating to the identification, evaluation, and provision of a free appropriate public education of any child. Therefore, the state plan should include these suggested implementation procedures developed in accordance with the state law.

COMMENT: When a parent or guardian contests the evaluation of his/her child, mediation in the form of an informal administrative review procedure to attempt a resolution of differences prior to a formal hearing may be undertaken.

This interim step, if necessary, may eliminate the need for a formal and impartial hearing at the onset of the disagreement. No mediation or administrative review procedure should delay or deny such a hearing from being held within the timeline established by law or other state policy. During formal hearings, school board members should not serve as hearing officers in proceedings conducted to resolve disputes between parents and officials in their school system. School board members have a clear interest in the outcome of the hearings, therefore placing the impartiality of such activities in jeopardy.

SECTION 4: SERVICE DELIVERY

4.1 PLAN ELEMENT: EDUCATION PROGRAM

The state plan should describe procedures which will insure that appropriate services are delivered to meet the unique educational needs of each gifted and talented student.

Plan Content Considerations

A. To assure the delivery of educational programs designed to meet the unique educational needs of each gifted and talented student, developers of the state plan should include guidelines for implementors to follow when developing a model individually designed educational program for gifted and talented students. This model should include minimal information local education agencies must have in order to comply with the law. Developers should also include a process by which implementors may disseminate this model to appropriate target groups for their consideration and possible use.

> COMMENT: Dissemination of individual education program models developed by the state education agency will help insure compliance with state requirements while permitting local decisions as to the design of instruments used. The monitoring advantage of state-wide adoption of one individual education program form as an alternative would have to be weighed against local preferences.
>
> The question of whether to require individual education programs for gifted children must be answered affirmatively, unless one wishes to revert to a categorical programming philosophy. Without such a mechanism, administrators would be hard pressed to design, deliver, and monitor services appropriate to the unique needs of each gifted and talented student. The individual education program should be viewed as a management tool which helps assure a better linkage between the student's needs and educational resources.

B. To deliver those programs and services available for all gifted and talented students who require special education and related services in settings that insure that no student shall be separated from his/her peers any more than

is appropriate, the state plan should include considerations for convening a meeting to develop an individually designed educational program written for each gifted and talented student. This meeting should include at least the following individuals:

- the child's teacher;
- the parents, guardian, or a parent surrogate;
- a representative of the local education agency who is qualified to provide or supervise the procession of specially-designed instruction to meet the unique educational needs of gifted and talented students;
- wherever appropriate, the gifted and talented child.

COMMENT: It is necessary that at least these individuals be included in the meeting, as they are the ones responible for and most capable of determining the student's present capabilities and needs. If it is the first time that the child has been evaluated, the public agency should insure that a member of the evaluation team participate in the meeting or that a previously mentioned participant is knowledgeable about the evaluation procedures and can accurately interpret their findings.

C. The state plan should also include guidelines implementors may follow to develop an annual, written,individually designed educational program for each gifted and talented student that will delineate the special education and related services required considering that student's educational needs. In the development of this individually designed educational program, consideration should be given to at least the following:

- a statement of the child's present level of educational functioning;

- annual goals requiring special educational services, including major learning milestones expected to occur during the year leading to the annual goals;
- special educational services needed by the child, and to be provided by the agency as part of the child's free appropriate public education;
- projected date for initiation and duration of services;
- evaluation criteria and procedures;
- personnel responsible for carrying out the program;
- description of the context in which the students will participate in regular education programs.

COMMENT: As set forth in the model state statute, the individually designed educational program must be evaluated at least annually. However, for many gifted and talented students, especially those in accelerated programs, from culturally diverse environments, or from handicapped populations, where initial assessment may not have been as accurate as possible due to biased or inadequate tests, it may be necessary to undertake more frequent evaluations of the individually designed educational program until a more accurate determination of the child's capabilities can be made. This is the reason milestone steps are part of the individually designed educational program contents. Periodically, throughout the year, the child's progress should be compared to these milestones. If progress is insufficient, a search for causes needs to be made. If minor changes in method of instruction, curriculum materials, or other strategies are necessary, these changes must be made expeditiously. If the cause appears to be unrealistic goals for the student or insufficient services being provided, then another meeting must be held to revise the individually designed educational program. Procedural safeguards must be followed in this event.

4.2 PLAN ELEMENT: LEAST RESTRICTIVE ENVIRONMENT

The state plan should describe educational programs and services options available for all gifted and talented students who require special education and related services to meet their unique educational needs in settings that insure

that no students will be separated from his/her peers any more than is appropriate.

Plan Content Considerations

A. The state plan should include guidelines local education agency implementors may follow in the establishment of policy for the development, maintenance, and evaluation of individually designed educational programs for gifted and talented students. In the formulation of such guidelines, consideration should be given to at least the following:

- Each individually designed educational program will be developed prior to the beginning of each school year; reviewed; and if appropriate, revised at least annually thereafter.
- For students identified the first time, the individually designed educational program will be developed within thirty days of the date the child was identified.
- Procedural safeguards, including confidentiality, will be followed as set forth in Section 3 of this state plan document.

COMMENT: To assure that the adminstrative procedures necessary to develop an individually designed educational program and the actual initiation of appropriate educational services are minimally descriptive for the child and the school, it is recommended that the individually designed educational program be completed and in effect at the beginning of each school year. The actual delivery of a special education and related services must begin as soon as possible after the individually designed educational program meeting takes place. (For clarification of special education and related services, see Section 3 of the model state statute.)

When evaluating an individually designed educational program, the local educational agency should be concerned with determining the following:

- the child's program;
- if there were any problems in the implementation of the program and delivery of services;
- if the program should be revised to better meet the child's current educational needs.

Consideration should also be given to the necessity of contact between local educational agencies and parents or guardians of the child prior to any review of the individually designed educational program to inform them of the review and possible revision. Therefore, developers of the plan should also include a methodology for establishing such contact.

> COMMENT: See parent notification requirements in the Procedural Safeguards section of this state plan document.

In addition, the state plan should also include procedures local educational agencies may follow in the submission of assurances to state education agencies that each gifted and talented student in need of special education and related services will have an individually designed educational program and that a copy of that program will be kept on file in the local district.

> COMMENT: Such assurances will enable the state education agency to monitor for compliance.

B. To further assist in the implementation of the law, the state plan should also include information about alternative programs that are designed to provide appropriate educational services to all identified gifted and talented students to include at least the following:

- learning centers
- internships

- mentorship
- acceleration
- enrichment classes
- itinerant teacher
- self-contained classes
- special schools

COMMENT: It is generally agreed that environment, i.e., rural, urban, culturally diverse, economically disadvantaged, has a definite effect on what types of programs may best serve gifted and talented children, in addition to their varying educational needs. It is also recognized that one or more of these environmental factors exist within every state. Therefore, it is necessary for the state education agency, as the major provider of technical assistance to the local education agencies, and the body subsequently responsible for monitoring service delivery to gifted and talented children, to compile information about the program options included in this strategy and develop guidelines to assist local education agencies in their implementation. The options listed in this strategy are not mutually exclusive, and therefore, the state education agency should undertake an ongoing investigation to determine others that are available, while encouraging local education agencies to participate in this activity as well.

C. To facilitate acceptance and implementation of alternative programs for the gifted and talented, at the local level, the state plan should include guidelines concerning their implementation and strategies for disseminating those guidelines throughout the state.

COMMENT: See previous comment.

D. To assure that gifted and talented students are only removed from the regular classroom environment to the extent required by their special educational needs, the state plan should include guidelines local education agencies may follow in the provision of those assurances.

COMMENT: As set forth in the model state policy, the purpose of providing services to gifted and talented children is to assure that those children whose gifts and talents cannot be

adequately accommodated in the regular educational environment and who by reason thereof, require special education and related services, and are provided such services in the least restrictive environment. Therefore, it is not reasonable to expect that all gifted and talented children will require special education and related services and those that do will be educated apart from their non-gifted peers. Rather, special education and related services, where feasible, should be provided in conjunction with the child's regular classroom environment. However, if it is determined that the regular classroom cannot meet the child's needs, alternatives must be devised, with removal from the regular classroom remaining as one possible option.

SECTION 5: COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

5.1 PLAN ELEMENT: SCOPE OF TRAINING

The state plan should describe the scope of training in the area of gifted and talented education for personnel from intermediate education units, local education agencies, and other agencies in the state serving gifted and talented children and youth.

Plan Content Considerations

A. To assist in determining the scope of training of personnel in gifted and talented education, the direction of the state in this area, and the identification of resources to facilitate related activities, it is important for intermediate education units, local education agencies and other agencies in the state serving gifted and talented children to inform the state department of education of their personnel development needs on an annual basis.

> COMMENT: Considering the existence of relatively limited educational services available to train personnel in the area of gifted and talented throughout the country, it is reasonable to assume widespread training needs among all levels of school personnel in a variety of areas related to the needs of the gifted and talented. Thus, the needs assessment must be administered to administrators, regular educators, teachers of the gifted and talented, paraprofessionals, support staff and parents to identify their needs for training in all aspects relating to the identification, assessment, instruction, counseling, etc. of gifted and talented children. These results may be reflected in the state's existing comprehensive manpower planning procedures or the state's master plan for education. A plan for improving the training of educational personnel should be an integral part of the state's goal of improving all education.

Once needs have been identified, it is also important for these agencies to initiate personnel development programs in an attempt to satisfy those needs. Therefore, the state plan should include strategies and procedures implementors may follow to conduct a state-wide needs assessment, technical assistance, and

training from the state for this purpose.

COMMENT: Improving the skills of administrators is an often overlooked but essential aspect of a comprehensive system of personnel development.

B. To enable local education and intermediate education agencies, institutions of higher education and other agencies in the state to comply with the personnel development requirements of the law, the state plan should also include guidelines for the provision of technical assistance to these agencies toward implementation of the state's comprehensive system of personnel development. Consideration should be given to at least the following:

- consultation with administrators in planning and managing a program to improve instruction and support services to gifted and talented students.
- assisting in the identification of national, state, local and regional resources which will assist in meeting the state's preparation needs for personnel to service gifted and talented students.

COMMENT: A portion of the 75% flow-through money under Title IX of P.L. 95-561 may be used for inservice training as may Title IV-C funds. In addition, the 25% Commissioner's Discretionary Programs (Sec. 905) (a) (1) of Title IX may include training of personnel or supervision of such personnel, including up to 20% of these funds that may go to institutions of higher education for the training of national leadership personnel. (Sec. 905)

5.2 PLAN ELEMENT: RESEARCH

The state plan should describe procedures for adopting where appropriate innovative educational practices developed through research conducted in the area of

gifted and talented education.

Plan Content Considerations

To identify procedures for adopting innovative educational practices developed through research conducted in the area of gifted and talented education, the state plan should include strategies implementors may employ for acquiring, reviewing, and disseminating practices derived from educational research and projects. Consideration should be given to at least the following:

- making personnel, administrators, agencies, and organizations aware of the research results and practices;
- designing training to reflect those practices;
- using instructional materials and other media for personnel development and instructional programming;
- adopting educational practices and materials proven effective through research and demonstration.

COMMENT: Under Sec. 905(a)(4) of the Gifted and Talented Children's Education Act of 1978 (P.L. 95-461) agencies may apply for funds to establish a clearinghouse to disseminate information about programs, services, resources, research, methodology and media materials for the education of gifted and talented children.

5.3 PLAN ELEMENT: INTERAGENCY PARTICIPATION

The state plan should describe the type and extent of participation of intermediate, local and other education agencies in the state toward the implementation of a comprehensive system of personnel development in the area of gifted and talented education.

Plan Content Considerations

The responsibility for coordinating the state's comprehensive system of personnel development in the area of gifted and talented is with the state education agency. However, staff constraints and resource limitations often experienced by that agency necessitate the state entering into contracts with other agencies and institutions to develop and implement one or more components of the personnel development program. Therefore, the state plan should include guidelines to follow when entering into a contract with an agency or institution. To assure that personnel development goals of the state are met, guidelines should address at least the following:

- responsibility for carrying out the personnel development programs, including preservice and inservice training;
- the development and modification of instructional materials;
- the dissemination of significant information derived from educational research.

COMMENT: This section recognizes that while the state has the ultimate responsibility for the personnel development program, it may enter into agreements with other agencies for assistance in meeting this responsibility through the conduction of related activities.

5.4 PLAN ELEMENT: EVALUATION AND MONITORING

The state plan should describe evaluation and monitoring strategies and responsibilities in the comprehensive system of personnel development.

Plan Content Considerations

A. Evaluation is a crucial aspect of any educational program and should be conducted in a logical well-organized manner. To accomplish this, the state

plan should include guidelines for agencies in the state to follow that will assist in determining evaluation responsibilities and developing effective strategies to accomplish the identified tasks. Guidelines should consider at least the following:

- the development of interstate reciprocity agreements;
- higher education and state education agency joint responsibility in the preparation of program descriptions and approval.

COMMENT: Linkages with institutions of higher education and interstate certification reciprocity can assist recruitment and help insure availability of staff while eliminating lengthy and complicated rechecking of credentials made necessary by variations in standards such as curricula experience qualifications and any other aspect of eligibility for certification.

B. The state plan should also include a process to monitor the training of intermediate, local and other education agencies to determine if the stated needs have been met or to identify obstacles in their path. Consideration should be given to gathering at least the following information in the monitoring process:

- a description of the number and types of personnel to be trained;
- the type of training needed, i.e., workshops, course offerings, etc.;
- content of training;
- agency(s) that may provide and sources of funding for inservice training;

- evaluation procedures to be employed to insure the effectiveness of the inservice training;
- incentives used to insure participation by teachers in training programs, including release time, payment for participation, options for academic credit, salary step credit, and certification renewal;
- the training needs of existing personnel to better serve gifted and talented children and youth;
- the need for new personnel to serve gifted and talented students.

C. In an attempt to determine the effectiveness of the state's comprehensive system of personnel development, the plan should also include strategies for annual evaluation which will also assist in establishing goals and objectives for the following year.

COMMENT: Though each local education agency is responsible for fulfilling its own inservice training needs, it is necessary for the local education agency to inform the state education agency of the training and the extent to which it was conducted. This information will allow the state education agency to monitor, to adequately plan state supported technical assistance, and to efficiently assign professional staff time. In addition, through the local education agency report, the state education agency may also better determine personnel needs throughout the state and offer training in these areas and/or collaborate with institutions of higher education to meet these needs.

The local education agencies must use incentives to the degree necessary to assure the availability of sufficient numbers of qualified personnel as are determined necessary to meet the needs of gifted and talented students in the district.

SECTION 6: PUBLIC NOTICE AND OPPORTUNITY TO COMMENT

6.1 PLAN ELEMENT: OPPORTUNITY TO COMMENT

The state plan should describe methods used to obtain public input prior to its adoption.

Plan Content Considerations

A. In order to provide the public an opportunity for input prior to adoption of the state plan, developers should make sufficient copies of the proposed plan available at each intermediate education unit, local education agency and various other locations throughout the state to insure ample opportunity for inspection prior to public hearings.

> COMMENT: States may elect to distribute copies of the proposed plan to the various groups listed in Consideration C of this section. Such action has been left to the states to decide based on economic and political considerations.

B. State plan developers should also include procedures to arrange and conduct public hearings throughout the state in accordance with the open meeting laws of the state for the purpose of eliciting comments on the proposed state plan for the education of gifted and talented students.

> COMMENT: In planning hearings, the state education agency will need to consider factors such as format, length of time allowed per comment, time and length of hearings, location (geographic and building), number of hearings needed in each state and chairperson of the meeting, and the need to be informed of those intending to comment. These considerations will help the state to operate hearings efficiently while taking demographic factors into account.

C. In an attempt to gather commentary from all possible individuals and agencies in both the public and private sectors within the state, the state plan should also include a process implementors may employ to provide the public with information on the hearings and the time and place where the state plan may be

inspected. Consideration should be given to the notification of the following:

- local and regional administrators and teachers
- advocacy groups
- parent professional organizations
- state advisory committee
- public and private colleges and university staff
- state and local public and private agencies
- gifted and talented individuals
- the general public

COMMENT: Announcements of public hearings should be submitted to major state newspapers, newsletters, t.v., and radio stations with copies (or other notification/invitation to comment) mailed to the groups/individuals listed. States should establish timelines between the notification and the hearings to allow ample opportunity for the public to inspect the plan and prepare comments. Anyone unable to attend the hearings must be allowed to submit written comments to the state education agency.

6.2 PLAN ELEMENT: SUMMARIZATION

The state plan should describe procedures implementors may follow for summarizing public comment and consideration of subsequent action taken on those comments.

Plan Content Considerations

All comments collected during the hearings and inspections of the plan should be reviewed by appropriate state personnel for their content and suggestions for possible plan revision. Therefore, developers of the plan should describe procedures for implementors to follow in the summarization of public commentary that would facilitate this activity.

If after review, it is determined that revision of the plan is necessary, appropriate action should be undertaken. Therefore, developers of the state plan should include methodology implementors may use to accomplish this re-

vision while adhering to guidelines and suggestions detailed in each section of this document.

> COMMENT: By keeping a record of comments and changes, the state education agency will be able to determine major areas of concern. Similar comments may be grouped to identify majority concerns as well as to provide a rationale for making or refusing to make changes suggested by the public.

6.3 PLAN ELEMENT: STATE PLAN AVAILABILITY

A description of methods used to make the state plan available to the public following its approval should be included in the plan.

Plan Content Considerations

In order to make the state plan available to the public following its approval, developers should include procedures for providing copies of the plan to each intermediate education unit, local education agency, and other interested parties upon request as well as inspection copies maintained at various locations throughout the state. In addition, the state plan should also include strategies for notifying the public of the time and place where the plan is available for inspection throughout the year.

> COMMENT: At times, copies of the state plan will be requested by other states, organizations, or individuals for purposes of policy research and analysis. Copies should be available through the state document clearinghouse for this purpose. In addition to local education agencies' offices, copies may also be maintained at major libraries and institutions of higher education. To further insure public access to this information, the state may wish to require intermediate education units and local education agencies to publish announcements and notify local groups of the availability of the state plan.

SECTION 7: FISCAL MANAGEMENT

7.1 PLAN ELEMENT: FISCAL MANAGEMENT PROCEDURES

The plan should describe fiscal management procedures which insure that public funds will be expended in a manner not inconsistent with federal and state law.

Plan Content Considerations

In order for the state to make the best possible use of public funds toward the education of all gifted and talented students, the plan should include procedures implementors may follow when undertaking activities in fiscal accounting in accordance with appropriate federal and state requirements. Consideration should be given to forms, schedules, rates, audits, etc. various agencies within the state must use.

The state plan should also include strategies for the state education agency to implement when receiving and allocating federal and state funds for services to gifted and talented students who require special education and related services.

Consideration should also be given to the description of a process for agencies in the state to follow when submitting an account of the source of all funds whether federal, state or local, received or expended for the education of gifted and talented students.

For the state to accomplish those tasks related to the fiscal management process, the plan should include strategies for coordinating all fiscal data submitted as a basis for planning, making recommendations to the state legislature and seeking additional federal and other financial assistance. In addition, to assist in future planning, the state plan should include methodology implementors may adopt to establish a projection of budget expenses prior to each fiscal year for the education of all gifted and talented students.

COMMENT: All states have procedures for tracking state appropriations expended for the education of children, including the gifted and talented. Therefore, personnel at the local level responsible for allocating funds for program operations for the gifted and talented must be careful to make detailed reports to the states, identifying those program areas where existing support is adequate to meet established goals. Such reporting will assist states in determining local areas of need resulting in increased support in future fiscal cycles.

Federal monies accepted by the state to supplement efforts in the education of gifted and talented children and youth must also be accounted. Federal funding agencies have specific fiscal accounting procedures which differ from those employed by the state, often causing additional duplicative and time-consuming work for staff.

Many states have established a state level coordinating position to assume federal and state fiscal responsibilities alleviating many of the problems associated with those tasks. Various federal legislation with special emphasis for the gifted and talented have within their accompanying regulations, guidelines which determine how relating appropriations may be utilized. Two examples are Title IV-C of P.L. 95-561, Educational Improvements, Resources and Support, and Title IX of P.L. 95-561, the Education of Gifted and Talented Children Act of 1978.

ALTERNATIVE STATE POLICY STATEMENTS

The policy statements found in this section are included to (1) provide consumers with those policy alternatives currently employed by states; (2) profile each state's policy base toward the education of gifted and talented students; and (3) to be used as a comparison to the model policy statement contained within this document.

ALTERNATIVE STATE POLICY STATEMENTS

Alaska

Statute. It is the purpose of Sections 180-350 of this chapter to provide competent education services for the exceptional children in the state who are at least three years of age and for whom the regular school facilities are inadequate or not available. (Sec. 14.30.180)

Regulations/Guidelines. All children in Alaska have a right to an appropriate education at public expense... Learning refers to natural and continuous change in performance, and performance among children is highly variable. Children whose performance is quite unusual or whose rate of learning is quite unusual are referred to as exceptional children. With exceptional children, learning to relate effectively to environments requires special opportunities to secure the necessary knowledge, competencies, and values. These special opportunities provided for exceptional children in school programs are referred to as Special Education. (1978, p. iv)

Arkansas

Statute. The purpose of this Act is to provide competent educational services for exceptional children of the state as defined in this Act for whom the regular public school facilities are not available or are not adequate to meet the specialized needs of these students.

Connecticut

State Plan for Gifted and Talented. The Department of Education recognized the needs of all children and youth being served by its one hundred sixty four school districts and assists them in developing educational programs which provide maximum opportunities for all children and youth to fulfill their capabilities...

Connecticut's legislation, Section 10-76(a-j) of the Connecticut General Statutes reflects its commitment to all children and youth requiring special education. Equal opportunities for all children and youth with special education needs are provided for under this statute. The gifted and/or talented in Connecticut are those possessing extraordinary learning ability and outstanding talent in the creative arts. These two definitions include both demonstrated and potential ability and talent and include differentiated experiences and activities for those who have such ability, bright underachievers, high creative producers, outstanding talent in music, the visual and the performing arts.

It is the Department's position that these children and youth are found in every school district regardless of age-groups, ethnic groups, socioeconomic conditions and geographical environments. The gifted and talented know none of these barriers and they possess the demonstrated and potential ability to become the future leaders of Connecticut and America as a whole. (1975-80)

Georgia

Statute. It is hereby declared to be the policy of the State of Georgia to assure that each Georgian has access to quality instruction designed to develop his capacities to the maximum through programs that meet his developmental and remedial educational needs. To implement this policy, the State shall assure that funds will be available for instructional personnel, media and equipment, and other necessary operating expenses for general and occupational education for children, youth and adults, including those with special needs.

Hawaii

Statute. It is hereby declared to be of vital concern to the State that all exceptional children residing in the State be provided with instruction, special facilities, and special services for education, therapy, and training to enable them to live normal competitive lives. In order to effectively accomplish such purpose the department of education shall establish and administer instruction, special facilities, and special services for the education, therapy, and training of exceptional children, and provide in connection therewith corrective therapy, together with academic, occupational, and related training.

Regulations/Guidelines. The maintenance and progress of a free society demands a system of education which will equip each individual for a lifetime of seeking and applying knowledge to deal effectively with the world, and which will assist each individual in personal development and growth.

To meet this goal, all children and youth in Hawaii are entitled equally to free, quality, public education. No child may be deprived of such educational opportunity because of conditions created through trauma, illness, accidents of inheritance or birth, or social, economic and emotional deprivations. For those children whose needs require additional efforts and resources from the educa-

tional system, the state of Hawaii has committed itself to undertake the provision of special education and services...

Its (special education) orientation is to provide a range of experiences for the individuals it serves, and to provide:

A higher degree of individualization than required for children in a regular program through special programs and services.

A qualified staff of personnel...

A system of utilizing resources from both the public and private sector...

All children are entitled to a program which will assist them toward achieving an education, cultural enrichment, personel fulfillment, and vocational success. (1974, p. 1-3)

Idaho

Regulations/Guidelines. The Idaho State Department of Education recognizes that all children and youth must have the opportunity to receive an educational program which is commensurate with their abilities, giftedness, and talents. The State Department of Education also recognizes that exceptional children may require special education programs and services that are supplemental to or different from regular classroom instruction.

The Idaho State Board of Education and the State Department of Education accept the philosophy that it is incumbent upon a society to provide for the unique needs of the exceptional child. With the passage of recent legislation, school personnel in the State of Idaho are committed to provide quality educational programs for all exceptional children in the state. (1977, p. 1)

State Plan for Gifted and Talented. The Idaho State Department of Education recognizes the right of all children and youth to a program of educational experiences which provides opportunities for development to the full limit of their capabilities; and also recognizes that exceptional children are those whose abilities, talents, and educational needs require programs which are differentiated from the regular classroom instruction in order to meet these special needs.

Gifted children are those whose abilities, talents, and potential for accomplishment are so outstanding that they require a variety of special provisions to meet their educational needs. They are found in all

ethnic groups, age-groups, socioeconomic groups, geographic locations and environments, and are those who have the potential to become the leaders in various fields of a democratic society.

The Idaho State Board of Education and the State Department of Education accept the philosophy that it is incumbent upon a society to provide for the unique needs of the gifted and talented as for any other exceptionality. With the passage of recent legislation which includes programs for the gifted and talented, the State of Idaho is committed to provide quality educational programs for all exceptional children in the state. (1974)

Illinois

Statute. This enactment is for the purpose of assisting and encouraging local school districts in the development and improvement of an edaucation program that will increase the educational services of the public schools of Illinois for gifted children as defined therein. (Sec. 14A-1)

Iowa

State Plan for Gifted and Talented. GOAL. To provide qualitatively differentiated educational programs to meet the unique needs, interests and abilities of the gifted and the talented in the State of Iowa.

The gifted and talented are those children and youth whose abilities, talents, and potential for accomplishment are so outstanding that they require a variety of special provisions to meet their educational needs. The gifted and talented are found in all ethnic groups, socioeconomic groups, and environments. In a democratic society which seeks to offer educational opportunities appropriate to each child's ability, it is essential to provide for the unique needs of the gifted and talented. They are entitled to a meaningful and complete educational experience regardless of age, location, ethnic background, or economic circumstance. (1974)

Kansas

Statute. ...It is the purpose and intention of this act to provide for educational opportunities which will contribute to the development of each exceptional child in this state in accord with his abilities and capacities. (Sec. 1, HB, 1672)

Regulations/Guidelines. Individuals identified as gifted possess unique abilities requiring a qualitatively differentiated curriculum to fulfill and maximize their potential. Objectives must be established and defined to accomplish short and long range goals and outcomes qualitatively which exceed those set for regular students. Instructional objectives must also be established to develop higher level mental processes. This is not to say that the gifted should not learn what is required of others. They must be given the opportunity to expand learning potential. A learning environment providing access to materials, media, and equipment as well as to human resources is required in order to challenge and stimulate these potentially productive persons.

Appropriate provisions for highly capable individuals shall conform to these basic precepts:

(1) A careful and comprehensive assessment of abilities, capabilities, and adjustment by qualified professional and lay persons shall be the basis for the identification of and programming for the gifted.

(2) Appropriate learning experiences to facilitate maximal development shall be planned and implemented on an individual basis. Elements of this individualization shall include the services of facilities, and the utilization of any other methods which research or experience has shown to be productive of quality programs.

(3) Opportunities for multimodel expression shall be provided.

(4) Student progress, appropriateness of curricular content, and other components of the program shall be continuously and methodically evaluated. Adjustments, revisions, or modifications in programming shall be made as indicated by analyses of evaluative data.

(5) Periodic review of consistency among program goals and objectives, individual learning activities and experiences, instructional approaches, and selection criteria for individuals, shall be provided. (1977, p. 73)

Louisiana

Statute. The purpose of this Part is to assure and require that the state shall fund a program of special eduction and related services for the exceptional children of this state, and that this program shall be administered by the Department of Education in keeping with the laws of this Part and with policies, rules and regulations developed pursuant to these laws by the Department of Education with the approval of its governing authority and in conjunction with other state and private agencies and nonpublic schools. (Sec. 1942)

ALTERNATIVE STATE POLICY STATEMENTS

Maryland

Statute. These gifted and talented students have a need for differentiated services beyond those normally provided by the regular school program in order to develop their potentialities. (Sec. 106F)

State Plan for Gifted and Talented. Education is the cornerstone of democracy. American achievement is limited by the quality of its educational system. A sound educational system must provide equal educational opportunity for all students by offering programs that respond to the individual needs, abilities, and potential of the nation's future citizens. For this reason, each student must have the option of a multiplicity of services to insure developmental growth.

Michigan

State Plan for Gifted and Talented. A basic stated premise of the Common Goals of Michigan Education is that all children in the state, including those with various exceptionalities, shall receive instruction commensurate with their various abilities and developmental levels. It follows, then, that children and youth who are exceptional by reason of their giftedness and special talents, should receive--indeed, have the right to receive--educational experiences that are appropriate to their exceptional abilities and talents. Thus, a fundamental tenet of this position statement is that schools will offer programs that are appropriate in their students, including those students who are outstanding in terms of academic giftedness and a variety of talents. The Socratic dictum goes: 'Nothing is more unequal than the equal treatment of unequals.' The idea of an appropriate education for all accepts this ancient wisdom. (1976)

Mississippi

Statute. The purpose of Sections 37-23-1 through 37-23-9 is to provide competent educational services and equipment for exceptional children, for whom the regular school programs are not adequate. (Sec. 37-23-1)

Regulations/Guidelines. The philosophy on which this program is based is that every child should have an opportunity to participate in an educational program so planned, adapted, and conducted as to provide each child the training and opportunity to take his rightful place in a demo-

cratic society. Fundamentally, the purpose of education for the exceptional child is to equip him with the attitudes and understanding, the skills and abilities, and the knowledge which will make it possible for him to develop to his maximum potential. This is considered to be socially sound and economically practical. (1977, p. 2)

State Plan for Gifted and Talented. By definition, gifted and talented students are those identified by professionally qualified persons who, by virtue of outstanding abilities, are capable of high performance. These are children who require differentiated educational programs and/or services beyond those normally provided by the regular school program in order to realize their contributions to self and society.

Because the gifted and talented of today will live in the world of tomorrow, educational efforts must attend to the heritage of the past, experiences of the present, and the ultimate impact of the future upon them and most importantly, their influence upon our state and nation. Therefore, the State of Mississippi,is dedicated to the fullest possible development of all gifted and talented students.

Missouri

Regulations/Guidelines. The Missouri Department of Elementary and Secondary Education recognizes that children and youth are entitled to educational experiences which provide varied opportunities for development to the full limit of their capabilities from the primary grades through high school. (1975, p. ii)

State Plan for Gifted and Talented. The Missouri Department of Elementary and Secondary Education recognizes that children and youth in a democracy have a right to a program of educational experience which provides opprotunities for development to the full limit of their capabilities.

The Missouri program for the gifted is established by enabling legislation which recognizes the obligation of school districts to provide education appropriate to the needs of special populations. Gifted and talented students include those of generally advanced intellectual development and also students with special talents. (1974)

ALTERNATIVE STATE POLICY STATEMENTS

Nevada

Regulations/Guidelines. It is the policy of Nevada, as declared by the 1973 Legislature, that school districts will provide programs of instruction for students who deviate either educationally or markedly from normal growth and development patterns that they have not progressed effectively in a regular school program, and, therefore, need special instruction or special services. (1976, p. 1)

State Plan for Gifted and Talented. One of the basic tenets of education in a democracy is the recognition of individual differences among children and the need for education for every child in terms of his potentiality. Gifted and talented students have definite unique educational needs, and these needs should become the foundation for their educational programs.

Recognizing the foregoing, Nevada has initiated steps to provide special educational services for academically talented students between the ages of four and eighteen.

It is recognized that there are children who are gifted and talented in many areas of human endeavor, therefore, as a long-range goal, the Nevada Department of Education subscribes to developing appropriate educational experiences for all of these children. During the current biennium, Nevada educators will work toward providing qualitatively differentiated educational opportunities for academically talented students. (1977)

New Mexico

Regulations/Guidelines. Explicit in the position of the State Department of Education, Division of Special Education, is the right of all children to an effective, free education based on and educational opportunity commensurate with individual need and designed toward full realization of potential... (1976, p. vi)

North Carolina

Statute. The purpose of this act is to (1) provide for a system of special educational opportunities for all children requiring special education; (2) provide a system for identifying and evaluating the educational needs of all children with special needs; (3) require evaluation of the needs of such children and the adequacy of special education programs before placing children in the programs (4) require periodic evaluation of the benefits of the programs to the children and of the nature of the children's needs after placement;

(5) prevent denials of equal educational opportunity on the basis of physical, emotional, or mental handicap; (6) to assure that the rights of children with special needs and their parents or guardians are protected; (7) insure that there be no inadequacies, inequities, and discrimination with respect to children with special needs; and (8) bring State law, regulations, and practice into conformity with relevant federal law. (Sec. 115.360)

State Plan for Gifted and Talented. The State of North Carolina recognizes its obligation to identify the gifts and talents inherent in its children, as recognized through the Equal Educational Opportunities Act (Chapter 1293, 1974 and amended 1975) and to provide resources which enable those gifted and talented to reach a useful and satisfying degree of development.

Furthermore, the State recognizes the multiplicity of potentials that exist within the diverse student population and accepts the mandate to identify and cultivate capacities wherever they occur. (1976-77)

North Dakota

State Plan for Gifted and Talented. In providing the best learning experience for all children, it is our responsibility to give special educational opportunities which are appropriate to the unique needs and abilities of gifted and talented children, both boys and girls. Self-fulfillment and personal satisfaction are primary objectives.

It is the positon of the Department of Public Instruction of North Dakota to actively promote and help develop programs for gifted and talented students at all educational levels...

Oklahoma

Regulations/Guidelines. The purpose of Gifted and Talented Education is to insure high quality diversified programs to meet the unique needs, interests and abilities of the gifted and talented child in order that each may reach his maximum potential.

It is the intent of the State Department of Education to assist local school districts in meeting their responsibility to gifted and talented children and guarantee a meaningful and complete educational experience appropriate to each child's ability regardless of age, location, ethnic background or economic circumstances. (p. 2)

ALTERNATIVE STATE POLICY STATEMENTS

Oregon

Statute. The purpose of ORS 343.391 to 343.401 is to stimulate and assist school districts to improve the instruction or curriculum for educational-able and gifted children enrolled in their schools or residing within the respective districts. (Sec. 343.391)

State Plan for Gifted and Talented. The State Department of Education is legally obligated to encourage and support all school districts in their efforts and commitments in meeting the educational needs of all children within the context of each child's intellectual, physical, emotional and social capabilities and to promote and endorse sound educational models and practices which will enable each child to make maximum use of his potential. Within the framework of such responsibility and contemporary trends which require that the educational needs of all children be met as adequately as possible, it is imperative that the unique needs of children identified as gifted and able be more specifically met. (1976)

Pennsylvania

Regulations/Guidelines. Differential programs for gifted children fit within the spectrum of special treatment for all children who have special learning needs. These programs are logical manifestations of our concern for individual differences, for equality of educational opportunity, and for optimal development of each child. By treating and educating the gifted as a group with identifiable differences (capabilities, interests, and needs), teachers and school administrators can plan educational programs to fit the individual needs of extremely able boys and girls and at the same time include experiences to develop their problem-solving and creative abilities.

...The implementation of these objectives calls for a transformed curriculum, as well as for (1) modification in the typical organization of the school day; (2) tailored instructional materials and methods; (3) specialized teacher preparation and specific teacher selection; and (4) education of the community for sustained cooperation, understanding, and support... (1974, p. 142)

Rhode Island

Regulations/Guidelines. The Regulations recognize and address the following principles:

(1) That each child's needs are unique to him and can

best be met by a program individually prescribed for him.

(2) That the rights of the child and his parents must be protected, that positive steps must be made to make parents aware of their rights, and that procedural safeguards be readily available to parents.

(3) That school systems must aggressively seek out those children who need special services and provide a broad spectrum of those services to meet the full service goal of providing appropriate education for all children in the age group defined by the Regents.

(4) That the eventual goal of special education is to assist each handicapped child to function to the best of his ability in a 'normal' society, and consequently that his educational program must take place in the milieu which most nearly approaches that 'normal' society that his particular needs will allow. (1978, p. i, ii)

Texas

State Plan for Gifted and Talented. Texas has an obligation not only to provide every individual with access to self-fulfillment, but also to assure its own healthy survival and the continuing development of its greatest resource--the capabilities of its people. The education system of free public schools is the chief mechanism or agency designed with an open door policy to establish a truly pluralistic system in which each individual receives the kind of education his or her needs and abilities require.

The needs of gifted and talented children are, in a sense, the same as those of other children, differing in degree and quality. All children need opportunity to develop their individual talents, and the gifted and talented are no exception. Such talented individuals come from all races, socioeconomic groups, geographic locales and environments. Programs for the gifted are not an either/or proposition, but a necessity. To deny the needs of the gifted is to deny the reality of an exceedingly wide and complex array of human differences. (1975)

Utah

Regulations/Guidelines. Two of our greatest needs today are for quality in our culture, and for strong leadership in the future.

To overcome these deficits we must capitalize on the qualities of gifted/talented who display exceptional interest in exploring fundamental suppositions and issues, in creating new uses for familiar and unusual materials, and in develop-

ing new and original interpretations of standard ideas and sounds. Gifted/talented people develop intellectual independence and integrity early in their lives and are more concerned than others of their age with abstract concepts and ethical problems.

If society capitalizes on these qualities, it is highly probable that we could add to the quality of our culture and could elevate to leadership the kinds of people who are concerned with ethics and morality.

A further need for upgrading of our educational programs is a personal one--the need to salvage lives of social uselessness and personal despair...Therefore, socially and individually these young people with a different kind of education might be freed to not only enrich their own lives but to enrich the much needed contributions to society and the lives of all of us. (1977)

State Plan for Gifted and Talented. The total talent in all youth is either being developed or being stifled in the schools, depending upon which way the educational experience is designed. The unidentified, untapped, underdeveloped talents in youth may be the greatest waste of potentially valuable resources in our nation and in the world. Further, students are becoming patterned and programmed during the school years so that, to a considerable degree, their future is determined and forecastable from their past. The longer any talent or set of talents remains dormant and unused, the more confidently can it be predicted that a person will never really use such potential talents during the remainder of his life. (1975)

Wyoming

State Plan for Gifted and Talented. Educators bear a tremendous responsibility for developing potential talent resources. Doing so is contingent on knowing the total gifted and talented student as best possible and understanding his needs, anxieties, moods, disappointments, and celebrations as well as fostering his intellectual growth. There is a need to create warmly responsive, non-threatening climates in classrooms. Similarly, educational leaders need to help others who are charged with educating these students to understand and utilize teaching strategies involving higher thought processes. Gifted and talented students need to develop their abilities to adapt and change and to rely on processes rather than static knowledge. (1975)

ALTERNATIVE STATE STATUTE LANGUAGE

Alternative state statute language is included in this document to give consumers a comprehensive profile of existing state legislation affecting the education of gifted and talented students.

Relevant education components addressed in statute have been isolated and categorized according to relevant sections of the model statute. Therefore, for maximum benefit, consumers should compare sections of the model statute to statute language contained in this section.

ALTERNATIVE STATE STATUTE LANGUAGE

SECTION 3: DEFINITIONS

301 - Gifted and Talented

California

Section 6421. Definitions. (a) 'Mentally gifted minor,' as used in this article, means a minor enrolled in a public primary or secondary school of this state who demonstrates such general intellectual capacity as to place him within the top 2 percent of all students having achieved his school grade throughout the state or who is otherwise identified as having such general intellectual capacity but for reasons associated with cultural disadvantages has underachieved scholastically.

Connecticut

Section 10-76a. (b) 'Child' means any person under twenty-one years of age. (c) An 'exceptional child' means a child who deviates either intellectually, physically, socially or emotionally so markedly from normally expected growth and development patterns that he is or will be unable to progress effectively in a regular school program and needs a special class, special instruction or special services. (e) 'Children requiring special education' includes any exceptional child who (1) is mentally retarded, physically handicapped, socially and emotionally maladjusted, neurologically impaired, or suffering an indentifiable learning disability which impedes his rate of development, which disability is amenable to correction or which rate of development may be improved by special education, or (2) has extraordinary learning ability or outstanding talent in the creative arts, the development of which requires programs or services beyond the level of those ordinarily provided in regular school programs but which may be provided through special education as part of the public school program.

Florida

Section 228.041. (19) Exceptional student.-- The term 'exceptional student' means any child or youth who has been certified by a specialist qualified under regulations of the state board to examine students who may be unsuited for enrollment in a regular class of the public schools or is unable to be adequately educated in the public schools without the provision of special classes, instruction, facilities, or related services, or a combination thereof.

ALTERNATIVE STATE STATUTE LANGUAGE

The term 'exceptional student' includes the following: The mentally retarded, the speech-impaired, the deaf and hard of hearing, the blind and partially sighted, the crippled and other health-impaired, the emotionally disturbed and socially maladjusted, those with specific learning disabilities, and the gifted.

Georgia

Section 32-605a. (a) All children and youth who are eligible for the general education program, preschool education, or who have special educational needs and three and four year old children who are either physically, mentally or emotionally handicapped or perceptually or linguistically deficient shall also be eligible for special education services. Children, ages 0-5 years, whose handicap is so severe as to necessitate early education intervention may be eligible for special education services. Children and youth with special needs are those who have emotional, physical, communicative, or intellectual deviations, or a combination thereof, to the degree that there is interference with school achievements, or adjustments, or prevention of full academic attainment and who require modifications or alterations in their educational programs. This definition includes children who are intellectually gifted, mentally retarded, physically handicapped, speech handicapped, behaviorally disordered, hospital or homebound, handicapped by a specific learning disability, multihandicapped, autistic, hearing impaired, visually impaired and any other areas of special needs which may be identified. The State Board of Education shall adopt classification criteria for each area of special need to be served on a Statewide basis, both for students to be served in a self-contained setting and those who can be served effectively in the regular classroom by itinerant personnel.

Idaho

Section 33-2002. Exceptional child defined.--'Exceptional children' means those children whose handicaps, or whose capabilities are so great as to require special education and special services in order to develop to their fullest capacity. This definition includes but does not limit itself to those children who are physically handicapped, mentally retarded, emotionally disturbed, chronically ill or who have perceptual impairment, visual or auditory handicap or speech impairment as well as those children who are so academically talented that they need special educational programs to achieve their fullest potential.

ALTERNATIVE STATE STATUTE LANGUAGE

Illinois

Section 14A-2. 'Gifted children' for the purpose of this and subsequent sections means children whose mental development is accelerated beyond the average to the extent they need and can profit from specially planned educational services....

North Carolina

Section 115-363. Definition of children with special needs.--The term 'children with special needs' includes, without limitation, all children between the ages of five and 18 who because of permanent or temporary mental, physical or emotional handicaps need special education, are unable to have all their needs met in a regular class without special education or related services, or are unable to be adequately educated in the public schools. It includes those who are mentally retarded, epileptic, learning disabled, cerebral palsied, seriously emotionally disturbed, orthopedically impaired, autistic, multiply handicapped, pregnant, hearing-impaired, speech-impaired, blind or visually impaired, genetically impaired, and gifted and talented.

Pennsylvania

Section 13-1371. Definition of exceptional children: reports; examination.--(1) The term 'exceptional children' shall mean children of school age who deviate from the average in physical, mental, emotional or social characteristics to such an extent that they require special educational facilities or services and shall include all children in detention homes.

308 - Special Education

California

(CAL. (EDUC.) CODE sec. 56302 (1978) (West))
'Special education' means programs or services specially designed to meet the educational requirements of individuals with exceptional needs. Programs for the communicatively handicapped serve those pupils with disabilities in one or more of the communication skills such as language, speech and hearing. Programs for the physically handicapped serve those pupils with physical disabilities such as vision, including disabilities within the function of vision resulting in visual perceptual or visual motor dysfunction, and mobility impairments and orthopedic or other health impairments. Programs for the learning handicapped serve pupils with significant disabilities in learning or behavior such

as learning disabilities, including disabilities resulting from visual perceputal disorders and visual motor disorders, behavior disorders and educational retardation. Programs for the severely handicapped serve pupils with profound disabilities and who require intensive instruction and training such as the developmentally disabled, trainable mentally retarded, autistic, and seriously emotionally disturbed. It is the intent of the Legislature in this definition to provide general classifications of special education programs. The Legislature also recognizes that a pupil may appropriately require services from more than one classification of program and that the examples given for each classification do not imply that such pupils can be grouped in a class or program without regard to the individual educational needs of the pupils served....

Connecticut

Section 10.76a. (d) 'Special education' means special classes, programs or services designed to meet the educational needs of exceptional children in accordance with the regulations of the secretary, subject to approval by the state board of education.

Florida

Section 228.041. Special Education. (20) Special Education Services.--The term 'special education services' means such related services in addition to instruction of the exceptional child as transportation, diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation and mobility training, braillist, typists and readers for the blind, specified materials and equipment and other such services as approved by regulations of the state board of education.

Georgia

Section 32-605a. (a) All children and youth who are eligible for the general educaion program, preschool education, or who have special educational needs and three and four year old children who are either physically, mentally or emotionally handicapped or perceptually or linguistically deficient shall also be eligible for special education services. Children, ages 0-5 years, whose handicap is so severe as to necessitate early education intervention may be eligible for special education services. Children and youth with special needs are those who have emotional, physical, communicative, or intel-

lectual deviations, or a combination thereof, to the degree that there is interference with school achievements or adjustments, or prevention of full academic attainment and who require modifications or alterations in their educational programs. This definition includes children who are intellectually gifted, mentally retarded, physically handicapped, speech handicapped, behaviorally disordered, hospital or homebound, handicapped by a specific learning disability, multihandicapped, autistic, hearing impaired, visually impaired and other areas of special needs which may be identified. The State Board of Education shall adopt classification criteria for each area of special need to be served on a Statewide basis, both for students to be served in a self-contained setting and those who can be served effectively in the regular classroom by itinerant personnel.

Idaho

Section 121. Idaho Admin. Regs. Special education shall be defined as specially designed programs which include the provision of facilities and materials, evaluative, instructional, and related services to meet the particular needs of exceptional children.

North Carolina

Section 115-362 NCGS. The term 'special education' means specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of a special needs child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term also includes speech pathology, audiology, occupational and physical therapy.

Pennsylvania

Section 13.1. Pennsylvania Regs. Special Education.-- A basic education program adjusted to meet the educational needs of exceptional persons.

309 - Related Services

California

Section 56332. California Ed. Code (1978). In addition to the general requirements of Section 56330, each local comprehensive plan submitted for approval under this chapter shall also include the following program components:

ALTERNATIVE STATE STATUTE LANGUAGE

(a) Instructional components...

(3) Designated instruction and...services not normally provided in a regular or special class or by the resource specialist program. Designated instruction and services shall meet standards as set forth by the board. These services may include, but are not limited to: language and speech development and remediation; audiological services; mobility instruction; instruction in the home and hospital; adaptive physical education; physical and occupational therapy not provided pursuant to Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code; vision services and therapy; specialized driver training instruction: counseling and guidance; psychological counseling; parent education; health-nursing services...

(b) Supportive components:

(1) Identification, assessment, and instructional planning as described in Sections 56335 to 56337, inclusive.

(2) Management and support services including program evaluation and staff development programs as defined by the board.

(3) Special transportation services. This includes transportation in special vehicles, transportation for pupils not attending school of residence, transportation to work stations and work-training programs, and providing room and board in lieu of transportation.

Florida

Section 228.041. The term 'special education services' means such related services in addition to instruction of the exceptional child as transportation, diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation and mobility training, braillist, typists and readers for the blind, specified materials and equipment, and other such services as approved by regulations of the state board of education.

Idaho

Section 1.119. Idaho Admin. Rules and Regs. Related services in special education are those which include: speech/language services, audiological services, psychological services, physical or occupational therapy, recreation, physical education, transportation, medical counseling related to educational planning, social work services, parent counseling and training, and early identification and assessment.

ALTERNATIVE STATE STATUTE LANGUAGE

North Carolina

Section 115-362, NCGS. The term 'related services' means transportation and such developmental, corrective and other supportive services as are required to assist a special needs child to benefit from special education and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes only. The term also includes school social work services, parent counseling and training, providing parents with information about child development and assisting parents in understanding the special needs of their child. Other similar services, materials and equipment may be provided as approved by regulations adopted by State Board of Education ("the Board").

310 - Free Appropriate Public Education

Connecticut

Section 10-76d(b)(c). State Statute. (b) in accordance with the regulations of the state board of education, each town and regional school district shall: (1) Provide special education for school age children requiring special education who are described in subdivision (1) of subsection (e) of section 10-76a. The obligation of the school district under this subsection shall terminate when such child is graduated from high school or reaches age twenty-one, whichever occurs first; (2) provide special education for children requiring special education who are described in subdivision (1) of subsection (e) of section 10-76a and who have not attained school age, but whose educational potential will be irreparably diminished without special education at an early age. The state board of education shall define the criteria by which the town or regional district shall determine whether a given child is eligible for special education pursuant to this subdivision, and such determination shall be made by the district when requested by a parent or guardian, or upon referral by a physician, clinic or social worker, provided the parent or guardian so permits. To meet its obligations under this subdivision, the board of education of any town or regional school district may, with the approval of the state board of education, make agreements with any private school, agency or institution to provide the necessary pre-school special education

program, provided such private facility has an existing program which adequately meets the special education needs, according to standards established by the state board of education, of the pre-school children for whom such town or regional school district must provide such an education and provided such district does not have such an existing program in its public schools. The per-pupil reimbursement by the state, pursuant to section 10-76g of the general statutes, for the costs incurred by any such school district for such pre-school special education through a private facility shall in no year exceed the average per pupil reimbursement by the state for the costs incurred by school districts for pre-school special education provided through the public facilities of such school districts.
(c) Each town or regional school district may provide special education for children requiring it who are described by subdivision (2) of subsection (e) of section 10-76a and for other exceptional children for whom provision of special education is not required by law.

Florida

Section 230-23. Florida Statute. The district school board shall establish a maximum amount which can be paid by a district school board for an individual exceptional student contract with a nonpublic school, based on the maximum full-time equivalent earned by the student.

Idaho

Introduction. Idaho Admin. Rules and Regs. The Idaho State Board of Education and the State Department of Education accept the philosophy that it is incumbent upon a society to provide for the unique needs of the exceptional child. With the passage of recent legislation, school personnel in the State of Idaho are committed to provide quality educational programs for all exceptional children in the state.

North Carolina

Section 115-360. NCGS. Policy.--The policy of the state is to provide a free appropriate publicly supported education to every child with special needs. The purpose of this act is to (1) provide for a system of special educational opportunities for all children requiring special education (hereinafter called 'children with special needs'); (2) provide a system for identifying and evaluating the educational needs of all children with special needs; (3) require evaluation of the needs of such children and the adequacy of spe-

cial education programs before placing children in the programs; (4) require periodic evaluation of the benefits of the programs to the children and of the nature of the children's needs after placement; (5) prevent denials of equal educational opportunity on the basis of physical, emotional, or mental handicap; (6) to assure that the rights of children with special needs and their parents or guardians are protected; (7) insure that there be no inadequacies, inequities, and discrimination with respect to children with special needs; (8) bring state law, regulations, and practice into conformity with relevant federal law.

311 - Individualized Education Program

Florida

Florida SBE Rules. 6A-6.331(3) Each district shall develop an individual educational plan for each exceptional student. (a) An individual educational plan consists of written statements including: (1) A statement of the student's present levels of educational performance; (2) A statement of annual goals, including short term instructional objectives; (3) A statement of the specific special education and related services to be provided to the student and the extent to which the student will be able to participate in regular educational programs; (4) The projected dates for initiation of services and the anticipated duration of the services; and (5) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

North Carolina

Section 115-375. NCGS. Each local educational agency shall prepare an individualized education program for each child found to be a child with special needs. The individualized educational program shall be developed in conformity with Public Law 94-142 of the implementing regulations issued by the Office of Education, Department of Health, Education, and Welfare and shall be implemented in conformity with timelines set by that Department. The term 'individualized educational program' means a written statement for each such child developed by meeting with a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed education to meet the unique needs of such children, the teacher, the parents, guardian(s) of such child, and whenever appropriate, such child, which judgment shall be based on rules developed by Board....

ALTERNATIVE STATE STATUTE LANGUAGE

Pennsylvania

Section 341.15. Pennsylvania Regs. The Individualized Education Program for each person assigned to special education programs and/or services shall include: (1) a statement of the person's present level of educational performance; (2) a statement of annual goals which describe the expected behaviors to be achieved through the implementation of the person's Individualized Education Program; (3) a statement of short-term instructional objectives; (4) a statement of specific educational services to be provided to the child, including a description of (1) all special education and related services required to meet the unique needs of the child; (2) any special instructional media and materials to be provided; and (3) the type of physical education program in which the child will participate; (5) a description of the extent to which the child will be able to participate in regular education programs; (6) the projected date for initiation and the anticipated duration of services; and (7) appropriate objective criteria evaluation procedures, and schedules for determining, on at least an annual basis, whether the instructional objectives are being achieved.

SECTION 4: IDENTIFICATION OF GIFTED AND TALENTED STUDENTS

California

Section 6422. Evidence of General Intellectual Ability.-- For the purposes of this article, the general intellectual ability of a minor shall be evidenced by one or more of the following factors: (a) Achievement in schoolwork; (b) Scores on tests measuring intellectual ability and aptitude; (c) The judgments of teachers and school administrators and supervisors who are familiar with the demonstrated ability of the minor. The general intellectual ability of a minor determined to be culturally disadvantaged shall be evidenced by criteria developed for such purpose by the State Board of Education. In no event shall the general intellectual ability of a minor determined to be culturally disadvantaged be evidenced solely by the criterion of subdivision (b).

Connecticut

Section 10-76d. (a) In accordance with the regulations and procedures established by the secretary and approved by the state board of education, each town or regional board of education shall provide the professional services requisite to identification of school age children requiring special

education, identify each such child within its jurisdiction, determine the eligibility of such children for special education pursuant to sections 10-76a to 10-76b, inclusive.

Florida

Section 229.831. It is the intent of the legislature that: (1) Any child whose performance, attitude or behavior indicates the possible existence of an exceptionality as defined by State Board of Education regulations be tested to determine whether such a disability does, in fact, exist. (2) All children with disabilities be identified, diagnosed, and treated at the earliest possible time during their school career. (3) By the beginning of the 1976 school year every child entering kindergarten shall be tested to determine the existence of potential disabilities. (4) Dagnostic and resource centers cooperate and consult with others and district schools concerning early detection and treatment of children with disabilities.

Section 229.832. Creation of a system of diagnostic and resource centers.--The Department of Education is directed to establish 18 regional diagnostic and resource centers for exceptional students, to be located in Alachua, Bay, Brevard, Broward, Dade, Duval, Escambia, Hillsborough, Lee, Lean, Marion, Orange, Okaloosa, Pnellas, Polk, Plam Beach, Sarasota, and Volusia Counties.

Section 229.833. Regional diagnostic and resource centers.--(1) Regional diagnostic and resource centers shall provide a responsible range of medical, physiological, psychological, educational, and other testing services designed to evaluate and diagnose disabilities, to prescribe instruction and services and to make possible the referral for necessary instruction and services. (2) Regional diagnostic and resource centers may provide consultant services within a district or districts to parents, regular teachers, exceptional student teachers, principals and other school personnel and community organizations in providing and improving instructional programs for students with disabilities. (3) In order to better serve children in counties not having a regional center, diagnostic and resource centers are authorized to use mobile testing units equipped to provide the same services as are available at the regional center. (4) The regional diagnostic and resource center shall coordinate all diagnostic services for students with disabilities, using to the maximum the existing facilities and services within the district or districts. The Department of Education shall cooperate with the Divisions of Health, Mental Health, Retardation, Family

Services, Vocational Rehabilitation, Youth Services, and Universities and Community Colleges in the establishment of diagnostic and resource centers and the provision of services to children with identified disabilities. (5) Beginning in 1975, each center shall prior to the commencement of the regular school year, hold inservice workshops designed to familiarize classroom teachers, principals, and supervisors with the center facilities and programs and to aid them in the detection of children with disabilities.

Section 229.834. Services to other than public school students.--Diagnostic and resource centers are hereby authorized to provide testing and evaluation services to non-public school pupils or other children who are not enrolled in a public school. The Department of Education shall establish a uniform schedule of fees to be charged by the centers for their services to children not currently enrolled in public schools. All fees collected by the individual centers for such services shall be accounted for in accordance with Department of Education regulations provided that the fees collected by each center shall be used for the provision of testing and evaluation services.

North Carolina

Section 115-372. Diagnosis and evaluation; individualized education program.--(a) All testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with special needs will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

Before taking any action described in subsection (b), below, each local educational agency shall cause a multi-discriplinary diagnosis and evaluation to be made of the child. The local educational agency shall use the diagnosis and evaluation to determine if the child has special needs, diagnose and evaluate those needs, propose special education programs to meet those needs, and provide or arrange to provide such programs. A multidisciplinary diagnosis and evaluation is one which includes, without limitation, medical (if necessary), psychological (if necessary) and educational assessments and recommendations; such an evaluation may include any other assessments as the Board may, by rule or regulation, require.

(b) An initial multi-disciplinary diagnosis and evaluation

based on rules developed by the Board shall be made before any such child is placed in a special education program, removed from such a program and placed in a regular school program, transferred from one type of special education program to another, removed from a school program for placement in a nonschool program, or otherwise tracked, classified, or treated as a child with special needs.

(c) Referral of any child shall be in writing, signed by the person requesting diagnosis and evaluation, setting forth the reasons for the request; it shall be sent or delivered to the child's teacher, the principal of the school to which the child is, has been, or will be assigned, and the superintendent or other chief executive officer of the affected local educational agency.

Within 30 days of such referral, the local educational agency shall send a written notice to the parents or guardian describing the evaluation procedure to be followed and requesting consent for the evaluation. If the parents or guardian consent, the diagnosis and evaluation may be undertaken; if they do not, the local educational agency may obtain a due process hearing on the failure of the parent to consent under Section 115-179.1.

The local educational agency shall provide or cause to be provided a diagnosis and evaluation appropriate to the needs of the child within 30 calendar days after sending the notice unless the parents or guardian have objected to such evaluation.

(e) Each local educational agency shall make and keep current a list of all children evaluated and diagnosed pursuant to this section who are found to have special needs and of all children who are receiving home, hospital, institutional or other special education services, including those being educated within the regular classroom setting or in other special educational programs.

Pennsylvania

Section 13-1371. (2) It shall be the duty of the district superintendent, in every school district in accordance with rules of procedure prescribed by the Superintendent of Public Instruction, to secure information and report to the proper intermediate unit on or before the fifteen day of October of each year, and thereafter as cases arise, every exceptional child within said district. As soon thereafter as possible, the child shall be examined by a person certified by the Department of Public Instruction as a public school psychologist, and also by any other expert which the type of handicap and the child's condition may necessitate. A report shall be made to the proper intermediate unit of all such children examined and of all

children residing in the district who are enrolled in special classes.

SECTION 5: SERVICE DELIVERY

California

'Programs,' as used in this article, shall consist of a special day class, or special services or activities which are provided each participating pupil for an amount of time each week which shall average a minimum of one participation if it consists of special services or activities which are provided each participating pupil for 200 minutes per week for 17 weeks through two semesters (to be reported at the end of the second semester) or for 60 hours per semester during eight or more weeks of a given semester or for 120 minutes per day for 20 days during a summer session. The State Board of Education shall define a special day class and the special services or activities which may be provided.

Connecticut

Section 10-76a. (d) 'Special education' means special classes, programs or services designed to meet the educational needs of exceptional children in accordance with the regulations of the secretary, subject to approval by the state board of education.

Florida

Section 228-041. (20) Special education services.--The term 'special education services' means such related services in addition to instruction of the exceptional child as transportation, diagnostic and evaluation services, social services, physical and occupational therapy, job placement, orientation and mobility training, braillists, typists and readers for the blind, specified materials and equipment, and other such services as approved by regulations of the state board.

(29) Alternative measures for students with special needs.--Alternative measures for students with special needs are measures designed to meet the special needs of a student that cannot be met by regular school curricula, including but not limited to, student services, parent conferences, physical examinations, remedial techniques, educational alternatives, and properly supervised activities relating to the upkeep and maintenance of school facilities, notwithstanding the provisions of chapter 450 to the contrary.

ALTERNATIVE STATE STATUTE LANGUAGE

Section 29.838. Special education support services in school districts.--The Department of Education, Division of Elementary and Secondary Education, is authorized to award grants to local school districts for the establishment or expansion of special education support services. The purposes of special education support services shall be: (1) To assure the availability of a full range of education assessment, medical, psychological, social, and prescriptive instructional services and other related services through direct services or purchased services. (2) To provide consultant services within a district or districts to parents, regular teachers, exceptional child teachers, principals and other school personnel and community organizations in providing instructional programs.

Section 229.839. Utilization of services.--The special education support service shall not duplicate but shall utilize and supplement services provided to children within a district or a region by state agencies and community organizations. Cooperating entities shall include but not be limited to the Department of Health and Rehabilitative Services, universities and community colleges. No funds shall be used for capital outlay construction.

Georgia

Section 32-609a. (d) The State Board of Education is hereby authorized to inaugurate a student honors program for pupils in the public and private high schools of this State who have manifested exceptional abilities, unique potentials, or who have made exceptional academic achievements. Such program may be conducted during summer months between normal school year terms at institutions of higher learning or other appropriate centers within this State with facilities adequate to provide challenging opportunities for advanced study and accomplishments by such students. The student honors program shall be implemented and operated in accordance with criteria to be established by the State Board, and operating and pupil costs and expenses may be paid by the State Department of Education from funds made available for this purpose by the State Board. The State Board is authorized to enter into cooperative agreements with the Board of Regents for operating and sharing the costs of such programs.

Idaho

Section 33-2002A. Special services to be provided.--Special services for exceptional children may include those services provided by certified ancillary personnel which includes certified special education teachers and certified consulting

teachers for students in approved special education programs, certified personnel serving as visiting teachers for homebound students, speech therapists, hearing therapists, school social workers, psychological examiners and school psychologists. Supervisors of special education programs and directors of special education programs whose major responsibilities are in the supervision and administration of special education programs may be considered as providing services under this act. Approved teacher aides may also be considered as providing services under this act.

Illinois

Section 14A-6. Contracts for area service centers, experimental projects and institutes.-- The Superintendent of Public Instruction with the advice and consent of the Council is authorized to enter into contracts with school districts, colleges and universities for the conduct of area service centers, experimental projects and institutes in the field of education of gifted children as defined herein.

Such area service centers, experimental projects and institutes shall be established and conducted under rules and regulations prescribed by the Superintendent of Public Instruction and issued pursuant to this Act.

Prior to entering into such contracts the Superintendent of Public Instruction and the Council shall evaluate proposals for the conduct of such area service centers, experimental projects and institutes as to the soundness of their design, the possibilities of securing productive results, the adequacy of resources to conduct the proposed area service center, experimental project or institute, and their relationship to other area service centers, experimental projects or institutes already completed or in progress.

Upon the approval of the performance of such contracts, the Superintendent of Public Instruction shall prepare and submit vouchers for their payment to the State Comptroller to be paid out of any money appropriated for such purpose.

North Carolina

Section 115-362. Definition of special education and related services.--The term 'special education' means

specially designed instruction, at no cost to the parents or guardians, to meet the unique needs of a special needs child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions. The term also includes speech pathology, audiology, occupational and physical therapy. The term 'related services' means transportation and such developmental, corrective and other supportive services as are required to assist a special needs child to benefit from special education and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes only. The term also includes school social work services, parent counselling and training, providing parents with information about child development and assisting parents in understanding the special needs of their child. Other similar services, materials and equipment may be provided as approved by regulations adopted by the State Board of Education ('the Board").

SECTION 6: PROCEDURAL SAFEGUARDS

Connecticut

Section 10-76d. In accordance with the regulations and procedures established by the secretary and approved by the state board of education, each town or regional board of education shall...prescribe suitable educational programs for eligible children, maintain a record thereof and make such reports as the secretary may require, provided in the case of any meeting conducted by a planning and placement team established in accordance with regulations issued by the state board of education, the parent or guardian of a child for whom such meeting is conducted shall be given at least three school days prior notice of such meeting and shall have the right to be present at and participate in and to have advisors of their own choosing and at their own expense to be present at and to participate in all portions of such meeting at which an educational program for such child is discussed, developed or written. Immediately upon the formal identification of any child as a child requiring special education, the responsible town or regional board board of education shall inform the parent or guardian of such child of the laws relating to special education. No school age child requiring

special education shall be excluded or exempted from school privileges except with the express approval of the secretary based upon appropriate professional advice. Said secretary shall immediately report any child so excluded or exempted to any state agency responsible by law for any aspect of the welfare of such child.

Section 10-76h. Hearing by local board of education. Review by hearing board. Transcript of formal sessions. Appeal.--(a)(1) A parent or guardian of a child requiring special education under sections 10-70a to 10-76g, inclusive, and section 10-94a, or the commissioner of children and youth services, or his designee, on behalf of any such child in the custody of said commissioner, may request in writing of the board of education of the school district responsible for providing such special education, a hearing on and a review of: (A) Diagnosis, (B) evaluation of special educational programs provided for such child, or (C) the exclusion or exemption from school privileges of such child. The board of education of the school district shall grant the parent, guardian or said commissioner said hearing and review to be transcribed. A written copy of the decision of the board shall be sent to the parent, guardian, or said commissioner within ten days of the hearing and review, together with a statement of the right of appeal. Any parent or guardian, or the commissioner of children and youth services aggrieved by the decision of the board may take an appeal therefrom within thirty days to the state board of education as provided in this section. In the event of an appeal, upon request and at the expense of the board of education of the school district, said board shall supply a copy of the transcript to the parent or guardian and to the state board of education.

(2) A parent or guardian of a child requiring special education under sections 10-76a to 10-76g, inclusive, and section 10-94a, aggrieved by a decision made pursuant to subdivision (1) of this subsection by the board of education may request, or the board of education of the school district responsible for providing such education may, with due cause, request in writing of the state board of education, a review of: (A) Diagnosis, (B) evaluation of education programs provided for such child by the board of education of the school district, or (C) the exclusion or exemption from school privileges of such child by the board of education of the school district.

(b)(1) A parent or guardian of a child requiring special education under sections 10-76a to 10-76g, in-

clusive, and section 1094a and the board of education of the school district responsible for providing such special education may, in lieu of the hearing provided in subdivision (1) of subsection (a) of this section, agree in writing to submit such matters to be reviewed to the secretary of the state board of education for mediation. Within fifteen days of the receipt of a request for mediation, signed by both parties, said secretary shall appoint a mediator, knowledgeable in the fields and areas significant to such educational review of such child, who shall attempt to work out a solution which is acceptable to both the local board and the parent or guardian of such child.

(2) If no agreement can be reached within fifteen days after the mediator first meets with the parties, such mediator shall certify in writing to the parties that mediation has not been successful and within fifteen days of such certification, either party may proceed in accordance with the provisions of subdivision (2) of subsection (a) of this section.

(c) The state board of education shall, on receipt of request for review made in accordance with the provisions of subdivision (2) of subsection (a) or (b) of this section, establish within thirty days a hearing board of not less than three persons knowledgeable in the fields and areas significant to such educational review of such child. Members of the hearing board may be employees of the state department of education or may be qualified persons from outside said department. No person who participated in the previous diagnosis, evaluation, or prescription of education programs or exclusion or exemption from school privileges under review, nor any member of the board of education of the school district under review, shall be a member of the hearing board.

(d) The hearing board shall, within thirty days, hear testimony of the party requesting said review and any other party directly involved, and shall review the previous diagnosis, evaluation, prescription of special educational services, and other education records of said child, which records shall be furnished by the board of education of the school district, and may hear such additional testimony as the hearing board shall deem relevant. Said hearing board may require a complete and independent diagnosis, evaluation and prescription of educational programs by qualified persons, the cost of which shall be paid by the board of education of the school district. Said hearing board shall cause all formal sessions of the hearing and review to be transcribed.

(e) The hearing board shall have the authority to con-

firm, modify, or reject any diagnosis, evaluation, educational program prescribed, or exclusion or exemption from school privileges and prescribe alternate special educational programs for the child, and shall inform the parent or guardian or the commissioner of children and youth services, as the case may be, and the board of education of the school district of its decision in writing within sixty days of its first meeting except that in any case in which the hearing board shall render its decision within thirty days of completion of such diagnosis and evaluation, but in any event, within one hundred twenty days of its first meeting. If the board of education of the school district responsible for providing special education for such child requiring special education does not take action on the findings or prescription of said hearing board within fifteen days after receipt thereof, the state board of education shall take appropriate action to enforce the findings or prescriptions of the hearing board. Appeals from the decision of the hearing board shall be taken in accordance with section 4-183, except such appeal shall be taken to the county or judicial district wherein the child resides. In the event of an appeal, upon request and at the expense of the state board of education, said board shall supply a copy of the transcript of the formal sessions of the hearing board to the parent or guardian or said commssioner and to the board of education of the school district.

North Carolina

Section 115-372. ...At the end of such diagnosis and evaluation, the local educational agency shall offer a proposal for an educational program appropriate to the child's needs. If this proposal calls for a special educational program, it shall set forth the specific benefits expected from such a program, a method for monitoring the benefits, and a statement regarding conditions which will be considered indicative of the child's readiness for participation in regular classes.

Within 12 months after placement in a special education program, and at least annually thereafter, those people responsible for developing the child's individualized education program shall evaluate the child's progress and, on the basis of previously stated expected benefits, decide whether to continue or discontinue the placement or program. If the reevaluation indicates that the placement or program does not benefit the child, the appropriate reassignment or alteration in the prescribed program shall

be recommended to the parents or guardian and their consent requested.

The local educational agency shall keep a complete written record of all diagnostic and evaluation procedures attempted, their results, the conclusions reached, and the proposals made.

(d) The local educational agency shall furnish the results, findings, and proposals based on the diagnosis and evaluation to the parents or guardian in writing in the parents' or guardian's native language or by their dominant mode of communication within 15 calendar days after the diagnosis and evaluation is completed. Within 20 days after the diagnosis and evaluation is completed, it shall cause a conference to be scheduled between one of its staff competent to interpret the report of the diagnosis and evaluation and the child's parents or guardian. The conference shall be held no later than 30 calendar days after the date it is scheduled. At the conference, the report shall be explained to the parents or guardian. The parents or guardian may waive the interpretive conference.

(f) Each local educational agency shall prepare an individualized education program for each child found to be a child with special needs. The individualized educational program shall be developed in conformity with P.L. 94-142 and the implementing regulations issued by the Office of Education, Department of Health, Education and Welfare and shall be implemented in conformity with the timelines set by that department. The term 'individualized educational programs' means a written statement for each such child developed in any meeting by a representative of the local educational agency who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of such children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall be based on rules developed by the Board. Each local educational agency shall establish, or revise, whichever is appropriate, the individualized education program of each child with special needs at the beginning of each school year and will then review, and if appropriate, revise its provisions periodically, but not less than annually. In the facilities and programs of the Department of Human Resources, the individualized education program shall be planned in collaboration with those other individuals responsible for the design of the total treatment and/or habilitation plan; the resulting educational, treatment, and habilitation plans shall be coordinated, integrated and internally consistent.

ALTERNATIVE STATE STATUTE LANGUAGE

Section 115-373. Records: privacy and expunction.--(a) No local educational agency may release to any persons other than the eligible student, his parents or guardian or any surrogate parent any records, data or information on any child with special needs except (1) as permitted by the prior written consent of the student, his parents or guardian or surrogate parent; (2) as required or permitted by federal law; (3) school officials within the local education agency who have legitimate educational interests; (4) school officials of other local education agencies in which the student intends to enroll; (5) certain authorized representatives of the State and federal government who are determining eligibility of the child for aid, as provided under P.L. 93-380 or other federal law.

(b) The eligibile student, his parents or guardian or surrogate parent shall have the right to read, inspect and copy all and any records, data and information maintained by a local educational agency with respect to the student, and, upon their request, shall be entitled to have those records, data and information fully explained, interpreted and analyzed for them by the staff of the agency. The parent or guardian or surrogate parent may demand that his request must be honored within not more than 45 days after it is made.

(c) The student, his parents or guardians or surrogate parent shall have the right to add to the records, data and information written explanations or clarifications thereof, and to cause the expunction of incorrect, outdated, misleading or irrelevant entries. If a local educational agency refuses to expunge incorrect, outdated, misleading or irrelevant entries after having been asked to do so by the parent, such person may obtain a due process hearing, under G.S. 115-179.1 on the agency's refusal, and must request the hearing within 30 days after the agency's refusal.

Section 115-371. Disciplinary suspensions.--If a local educational agency suspends or expels a child with special needs from a public school program for a period of more than 10 days or for consecutive periods that total more than 10 days because he is or poses a risk of injury to himself or others or because he is or is threatening to substantially disrupt the education of others, the agency, notwithstanding the suspension or expulsion, shall continue to provide the child with essential special education or related services during the period of suspension or expulsion if that period is one in which the child would be receiving special education or training in the

unit but for the suspension or expulsion. The parents may appeal, under G.S. 115-179.1 any suspension of more than 10 consecutive days. These limitations on suspension and expulsion shall not interfere with the authority of the Department of Human Resources to release or dischrage patients and residents from its programs when the primary purpose of admission has been achieved or when it is no longer feasible or advisable to continue the patient or resident in residence.

SECTION 7: STATE ADMINISTRATION

California

Section 6432. Rules and Regulations: Identification and Minimum Standards.--The State Board of Education shall adopt rules and regulations which: (a) Prescribe the procedures, consistent with this article, by which a district shall identify pupils as mentally gifted minors for the purposes of this article; (b) Establish minimum standards for programs; (c) Investigate and establish separate criteria by which a district may identify culturally disadvantaged pupils as mentally gifted minors for the purposes of this article.

Section 6433. Duties of the Superintendent of Public Instruction.--The Superintendent of Public Instruction shall adopt rules and regulations which for the purposes of this article: (a) Define 'apportionment;' Prescribe the form and manner of application for special apportionment.

Section 6434. Supervision and Consultant Service.--The State Board of Education shall establish in the Department of Education a supervision and consultant service to assist and advise school districts in the establishment, development, and improvement of programs, and shall employ the necessary personnel who shall devote their entire time to the provision of such service.

Connecticut

Section 10-76b. State supervision. Regulations. Coordinating Agency.-- (a) The state board of education shall provide for the development and supervision of the educational programs and services for children requiring special education and may regulate curriculum, conditions of instruction, physical facilities and equipment, class composition and size, admission of students, and the requirements respecting necessary special services and instruction to be provided by town and

regional boards of education. The educational aspects of all programs and instructional facilities in any day or residential child-caring agency or school which provides training for children requiring special education and which receives funding from the state under the provisions of sections 10-76a to 10-76g, inclusive, shall be subject to the approval and supervision of the state board of education which shall adopt and enforce regulations concerning requirements for such programs and accommodations.

(b) The secretary shall designate by regulations, subject to the approval of the state board of education, the procedures which shall be used to identify exceptional children.

(c) Said board shall be the agency for cooperation and consultation with federal agencies, other state agencies and private bodies on matters of public school education of children requiring special education, provided the full responsibilities for other aspects of the care of such children shall be reserved to such other agencies.

(d) The state board of education shall periodically evaluate the progress and accomplishments of programs covered by sections 10-76a to 10-76g, inclusive. Said board shall annually, on or before February first, review, with the joint standing committee on education of the general assembly, the disbursement of funds, the type of projects funded, and the evaluation of programs dealing with children requiring special education in order to apprise the general assembly of the true condition, progress and needs of special education.

Florida

Section 229.835. Duties and responsibilities of the state coordinator.--The state coordinator of diagnostic and resource center programs shall have the following duties and responsibilities: (1) To select a qualified director and staff for each center. Provided that, each director must have a masters degree in education of exceptional students or a related subject area and be a certified teacher. (2) To submit an annual summary report together with his recommendations to the legislature on the programs and activities of all the diagnostic and resource centers. (3) To oversee and coordinate the activities and programs of all the diagnostic and resource centers.

Section 230.33. Duties and responsibilities of superintendent.--The superintendent shall exercise all powers and perform all duties listed below and elsewhere in the law;

provided, that in so doing, he shall advise and counsel with the school board. The recommendations, nominations, proposals, and reports required by law and regulations to be made to the state board by the superintendent shall be either recorded in the minutes or shall be made in writing, noted in the minutes and filed in the public record required in this paragraph, the recommendations, nominations and proposals required of the superintendent were not contrary to the action taken by the school board in such matters.

Georgia

Section 32-605a. (c) The State Board of Education shall have the authority to provide educational and training services for children who have special educational needs such as emotional, physical, communicative, or intellectual deviations, or any combination thereof, to the degree that there is interference with school achievements or adjustments or prevention of full academic attainment, and who require modifications or alterations in their educational program. This definition includes children who are mentally retarded, physically handicapped, speech handicapped, multiple handicapped, autistic, intellectually gifted, hearing impaired, visually impaired, and any other areas of special needs which may be identified. The State Board of Education may provide such educational and training services by:

(1) contracting with or making grants to suitable private or public institutions, or with both public and private institutions, inside or outside the State of Georgia for the provision of such services;

(2) contracting with suitable public agencies and departments, including institutions in which eligible children are confined and outpatient centers serving eligible children, inside and outside the State of Georgia for the provision of such services.

(3) entering into reciprocal agreements with other states or political subdivisions thereof for the provision of such services.

(d) The State Board of Education may promulgate any rules, regulations and standards and establish the terms and conditions governing the provision of State aid hereunder and perform any and all acts necessary or proper to carry out the provisions, intent and purpose of this section.

(e) It is further provided that every child and youth eligible for special education services shall have access to a quality program on or before two years after the date this Act becomes law.

(g) The State Board of Education shall adopt policies, procedures, regulations and other such requirements for the

transportation and for the payment of all transportation costs, as described, defined and authorized in subsections (a), (b), (c), (d) and (e) of this section, for all the children with special needs identified by the various local units of administration: further, the State Board of Education shall allot funds to local units of administration for transportation costs for those children authorized by said local unit of administration to attend schools and programs of other local units of administration or when deemed necessary for adequate educational services.

(h) The State Board of Education is further directed and authorized to adopt policies and regulations relative to the use of minibuses for the transportation of students with special needs.

Section 32-653a. Powers and duties of the State Board of Education.--The State Board of Education shall adopt and prescribe all rules, regulations and policies required by provisions of this Chapter, and shall adopt and prescribe such other rules, regulations and policies as may be reasonably necessary or advisable for proper implementation, enforcement and carrying out of provisions of this Chapter, and other public school laws, or for assuring a more economical and efficient operation of the public schools of this State, or any phase of public education in the public schools of this State. The State Board shall establish and enforce minimum standards for operation of all phases of public school education in Georgia and for operation of all public elementary and secondary schools and local units of school administration in Georgia so as to assure, to the greatest extent possible, equal and adequate educational programs, curricula, offerings, opportunities and facilities for all Georgia's children and youth, and economy and efficiency in administration and operation of public schools and public school systems throughout the State. The State Board shall have the power to perform all duties and to exercise all responsibilities vested in it by provisions of law for the improvement of public education in the public elementary and secondary schools of Georgia. All rules, regulations, policies and standards adopted or prescribed by the State Board in carrying out the provisions of this Act and other school laws shall, if not in conflict therewith, have the full force and effect of law.

Idaho

Section 33-2003. Responsibilities of state board of education.--The state board of education shall:

ALTERNATIVE STATE STATUTE LANGUAGE

1. Establish programs, set standards, and employ such supervisory and clerical personnel as may be required to assist and direct school districts in educating and training exceptional children;

2. Establish programs, set standards, and employ such supervisory and clerical personnel as may be required to assist and direct school districts in educating and training exceptional children;

3. Establish a research program to evaluate on-going programs, assess the number and types of exceptional children, and make recommendations;

4. Formulate, and when necessary, revise regulations and standards for the determination of eligibility of children for special services, education and training. No child shall be enrolled or placed in any special education class nor shall any public funds be used for the education of such children except that a child be comprehensively evaluated in accordance with regulations and standards prescribed by the department of education and found to be eligible for special education programs supported by this act.

Illinois

Section 14A-3. Supervision of program.--The administration of the program herein enacted shall be supervised by the Superintendent of Public Instruction with the advice of an Advisory Council on Education of Gifted Children.

North Carolina

Section 115-364. Services mandatory; single-agency responsibility; state and local plans; census and registration.--(a) The Board shall cause to be provided by all city and county school administrative units and by all other State and local governmental agencies providing special education services or having children with special needs in their care, custody, management, jurisdiction, control, or programs, special education and related services appropriate to all children with special needs. In this regard, all city and county school administrative units and all other State and local governmental agencies providing special education and related services shall explore available local resources and determine whether the services are currently being offered by an existing public or private agency.

When a specified special education or related service is being offered by a local public or private resource, any unit or agency described above shall negotiate for the purchase of that service or shall present full consideration

of alternatives and its recommendations to the Board. In this regard, a new or additional program for special education or related services shall be developed with the approval of the Board only when (a) that service is not being provided by existing public or private resources, or (b) the service cannot be purchased from existing providers. Further, the Board shall support and encourage joint and collaborative special education planning and programming at local levels to include city and county administrative units and the programs and agencies of the Departments of Human Resources and Correction.

The jurisdiction of the Board with respect to the design and content of special education programs or related services for children with special needs extends to and over the Department of Human Resources and the Department of Correction.

All provisions of this Subchapter that are specifically applicable to city and county school administrative units also are applicable to the Department of Human Resources and the Department of Correction and their divisions and agencies; all duties, responsibilities, rights and privileges specifically imposed on or granted to city and county school administrative units by this Subchapter also are imposed on or granted to the Department of Human Resources and the Department of Correction and their divisions and agencies. However, with respect to children with special needs who are residents or patients of any State-operated or State-supported residential treatment facility, including without limitation, a school for the deaf, school for the blind, mental hospital or center, mental retardation center, or in a facility operated by the Department of Correction or any of its divisions and agencies, the Board shall have the power to contract with the Department of Human Resources and the Department of Correction for the provision of special education and related services and the power to review, revise and approve said departments' plans for special education and related services to those residents.

Section 115-400. Board rules and regulations.---The Board shall adopt rules and regulations for the administration of this act. The Board shall provide technical assistance to the various concerned agencies at their request.

(d) The Board shall adopt as soon as practicable after the effective date of this act (but not in any event later than 120 days after the effective date) rules or regulations covering: (1) The qalifications of and standards for certification of teachers, aides, speech clinicians, school psychologists, and others involved in the education and train-

ing of children with special needs; (2) Minimum standards for the individualized education program for each child with special needs who receives special education or related services and (3) Such other rules or regulations as may be necessary or appropriate for carrying out the purposes of this act.

Pennsylvania

Section 13-1372. Exceptional children; education and training.--(1) Standards for Proper Education and Training of Exceptional Children. The State Board of Education shall adopt and prescribe standards and regulations for the proper education and training of all exceptional children by school districts or counties singly or jointly. The Department of Public Instruction shall have power, and it shall be its duty, to determine the counties which shall be joined for the purpose of providing proper education and training of exceptional children. Standards and regulations shall recognize such factors as number of exceptional children, types of handicaps, facility of transportation, adequacy of existing provisions for exceptional children and availability of school plant facilities.

SECTION 8: SCHOOL DISTRICT RESPONSIBILITY

California

Section 6423. Programs and Approval.--The governing board of any school district may provide programs for mentally gifted minors living in the district who are enrolled in kindergarten or grades 1 through 12 in the schools of the district and who may be expected to benefit from a program suited to their abilities. The governing board, subject to such terms and conditions as may be agreed upon, may contract with another school district for furnishing programs for such minors or may so contract for the education of such minors including the furnishing of such programs.

The county superintendent may, with the approval of the county board of education and the governing board of the school district, provide programs under the provisions of this article, and transportation therefor, for mentally gifted minors who reside in any school district. For such purposes, the terms 'school district' and 'governing board of a school district,' as used in this article, shall be deemed to include the county superintendent of schools.

Section 6424. Authority to Enter Into Agreements for Conducting Services and Programs.--The governing board of a school

district, in providing programs under this article, may enter into agreements with a county superintendent of schools for those appropriate services to districts authorized in Chapter 4 (commencing with Section 885) of Division 3 and for conducting programs for gifted minors enrolled in the schools of the district.

Section 2423.1. Nature of Programs.--The governing board of any school district which provides a program for mentally gifted minors in accordance with Section 6423, may: (a) Conduct programs, seminars and classes for mentally gifted minors, as defined in Section 6421, within or without the boundaries of the school district and for that purpose employ instructors, supervisors, and other personnel and provide necessary equipment and supplies. (b) Transport or arrange transportation of pupils, instructors, supervisors or other personnel to or from such places where such programs and classes are being conducted, whether within or without the district, but such transportation shall be within the state; (c) For such purposes use such district facilities as are authorized under Article 6 (commencing with Section 6011) of this chapter for outdoor science and conservation education.

Attendance of pupils at such programs, seminars, and classes shall be included in computing attendance and average daily attendance of the district for the purposes of apportionments from the State School Fund.

Connecticut

Section 10-76d. (c) Each town or regional school district may provide special education for children requiring it who are described by subdivision (2) of subsection (e) of section 10-76a and for other exceptional children for whom provision of special education is not required by law.

(d) To meet its obligations under sections 10-76a to 10-76g, inclusive, any town or regional board of education may make agreements with another such board or subject to the consent of the parent or guardian of any child affected thereby, make agreements with any private school including any such school which does not place primary emphasis on programs for exceptional children but which provides an existing program, or which is willing and able to make accommodations within such an existing program or create a new program which can adequately meet the educational needs of the children for whom such agreements are being made, or with any public or private agency or institution to provide the necessary programs or services but no expenditures made pursuant to a contract with a private school, agency

or institution for such special education shall be reimbursable under the provisions of section 10-76g unless (1) Such contract includes a description of the educational program and other treatment the child is to receive, a statement of minimal goals and objectives which it is anticipated such child will achieve and an estimated time schedule for returning the child to the community or transferring such child to another appropriate facility and (2) the educational needs of the child for whom such special education is being provided cannot be met by public school arrangements in the opinion of the secretary who, before granting approval of such contract for purposes of reimbursement, shall consider such factors as the particular needs of the child, the suitability and efficiency of the program offered by such private school, agency or institution and the economic feasibility of comparable alternatives. Any town or regional board of education may enter into a contract with the owners or operators of any sheltered workshop or rehabilitation center for provision of an education occupational training program for children requiring special education who are at least sixteen years of age, provided such workshop or institution shall have been approved by the state board of education. Whenever any child is identified by a town or regional board of education as a child requiring special education and said board of education determines that the requirements for special education could be met by a program provided within the district or by agreement with another board of education except for the child's need for services other than educational services such as medical, psychiatric or institutional care or services, said board may meet its obligation to furnish special education for such child by paying the reasonable cost of special education instrction in a private school, hospital or other institution provided said board or the secretary concurs that placement in such institution is necessary and proper and no state institution is available to meet his needs.

(e) Any town or regional school district which provides special education pursuant to any mandates in this section shall provide such transportation, tuition, room and board and other items as are necessary to the provision of such special education except for children who are placed in a residential facility because of the need for services other than educational services, in which case the financial responsibility of the school district and reimbursement to such district shall be limited to the reasonable costs of special education instruction as defined in the regulations

of the state board of education.

(f) On and after July 1, 1975, no additional children placed out primarily for special education services shall be placed in a private school, agency or institution outside of the state, except when in the opinion of the secretary of the state board of education it is determined that:

(1) No public or approved private facility which can reasonably provide suitable special education programs for such children is available in the state;

(2) No public or approved private facility which can reasonably provide suitable special education programs for such children is available in the state and the out-of-state placement is required for a period of time not to exceed two years, during which time the town or regional school district responsible for providing such children with a special education shall develop a suitable special education program or cause such program to be developed within the state; or

(3) An out-of-state placement is more economically feasible than an existing special education program in the state or any such program that could be developed within the state within a reasonable period of time. No placement in an out-of-state private special education school, agency or facility shall be approved unless such school, agency or facility first agrees in writing to submit to the state department of education any such financial program and student progress reports as the secretary may require for the purpose of making an annual determination as to the economic feasibility and program adequacy of the special education program provided. The provisions of this subsection shall not apply to children placed out primarily for services other than educational services as described in subsection (d) of this section.

(g)(1) Each town or regional board of education shall review annually and make a report as to the progress of each child for whom such board is obligated to provide a special education and who receives special education services in any private school, agency or institution and shall, upon request of the secretary, submit such reports to the state board of education. (2) Whenever a town or regional board of education determines that a child who has for three years received special education services in private facilities pursuant to subsection (d) of section 10-76d, must receive such services from private facilities for an additional period of time, the state board of education, shall annually thereafter review the progress of such child prior to approving or disapproving for purposes of reimbursement,

pursuant to subsection (d) of section 10-76d, any continuation of private placement, considering such factors as the educational and other needs of the child.

Florida

Section 230.23. 1. Each school board shall provide an appropriate program of special instruction for exceptional children. Such program shall be implemented in annual increments so that all exceptional children shall be served, except that all severely and profoundly retarded children shall be served by 1977-1978.

Section 229.836. Duties and responsibilities of district school boards.--(1) Each school board in a district having a diagnostic and resource center within its borders shall have the duty and responsibility: (a) to provide the necessary physical facilities and administrative support to enable the center to serve the maximum number of students possible; (b) To refer students to the center for testing and evaluation; (c) To establish or otherwise provide programs to meet the needs of students identified by the center as having disabilities.

(2) In counties not having a center within their borders the school board is authorized to contract with one or more centers that are the closest in proximity to the student population to be served.

Section 289.837. Duties of the center director.--The director of each center shall have the duty and responsibility: (1) to coordinate the activities of the center and the school districts to insure that all schools receive the necessary services; (2) To keep a record of all pupils referred to the center, all tests given and all resource services provided either to the districts or to an individual child; (3) To submit an annual plan to the Department of Education which shall include, but not be limited to, a description of physical facilities, the number of the districts and children to be served, and the type of program to be offered; (4) To recommend to the State Coordinator of Diagnostic and Resource Center qualified individuals to be considered for vacancies on the center staff.

Section 230.23. Powers and duties of school board.--The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(4) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS.--Adopt, and provide for the execution of plans for the establishment, organization, and operation of the schools of the dis-

tricts as follows:

(m) EXCEPTIONAL STUDENTS.--Provide for an appropriate program of special instruction, facilities and services for exceptional students as prescribed by the state board as acceptable, including provisions that:

(1) The school board provides the necessary professional services for diagnosis and evaluation of exceptional students;

(2) The school board provides the special instruction, classes and services either within the district school system, or in cooperation with other district school systems, or through contractual arrangements with approved private or nonpublic schools or community facilities.

(3) The school board submits annually to the department its proposed procedures for the provision of special instruction and services for exceptional students.

(4) No student shall be given special instruction or services until he is properly classified as an exceptional student. The parent or guardian of an exceptional student placed or denied placement in a program of special education shall be notified promptly of such.

(5) In providing for the education of exceptional students the superintendent, principals, and teachers shall utilize the regular school facilities and adopt them to the needs of exceptional students whenever this is possible. No student shall be segregated and taught apart from normal students until a careful study of the student's case has been made and evidence obtained which indicates that segregation would be for the student's benefit or is necessary because of difficulties involved in teaching the student in a regular class.

(6) The principal of the school in which the student is taught shall keep a written record of the case history of each exceptional student showing the reason for the student's withdrawal from the regular class in the public school and his enrollment in or withdrawal from a special class for exceptional students and this record shall be available for inspection by school officials at any time.

(7) The district school board shall establish a maximum amount which can be paid by a district school board for an individual exceptional student contract with a nonpublic school based on the maximum full-time equivalent earned by the student.

(n) EXCEPTIONAL STUDENTS.--Each school board shall provide an appropriate program of special instruction for exceptional children. Such programs shall be implemented in annual increments so that all exceptional children shall be served, except that all severely and profoundly retarded children shall be served by 1977-78.

ALTERNATIVE STATE STATUTE LANGUAGE

2. Pursuant to regulations to be adopted by the State Board of Education, a school board may submit to the commissioner a proposal for a grant for programs for the severely and profoundly retarded. Upon the request of any school board, the department shall provide such technical assistance to the school board as is necessary to develop and submit a proposed program for the severely and profoundly retarded. The department may use its own staff or such consultants as may be necessary to accomplish this purpose. The district school boards shall give priority to the programs serving the maximum number of persons within the limits of resources available and to programs which will allow for matching funds or for joint funding from the Federal Government or other public or private sources.

(a) Admission, classification, promotion, and graduation of pupils.--Adopt rules and regulations for admitting, classifying, promoting, and graduating pupils to or from the various schools of the district, including discretionary power to separate the sexes in the various schools of the district.

(b) Enforcement of attendance laws.--Provide for the enforcement of all laws and regulations relating to the attendance of pupils at school and for employing such assistance to the superintendent as may be needed to enforce these laws effectively.

(c) Control of pupils.--Adopt rules and regulations for the control, discipline, and suspension of pupils and decide all cases recommended for dismissal.

(12) COOPERATION WITH OTHER AGENCIES.--Cooperate with federal, state, county and municipal agencies in all matters relating to education and child welfare.

Georgia

Section 32-605a. (b) Local units of administration shall, subject to any limitations hereinafter specified, provide a special education program for all students with special needs who are residents of their school systems, either by establishing and maintaining such educational facilities and employing such professional workers as are needed by these students or by entering into a contract with other school systems or Cooperative Educational Service Agencies for such services.

Idaho

Section 33-2001. Responsibility of school districts for education of exceptional children.--Each public school district is responsible for and shall provide for the education and training of exceptional pupils resident therein.

ALTERNATIVE STATE STATUTE LANGUAGE

Every public school district in the state may provide instruction and training for persons to the age of twenty-one (21) years who are exceptional children as defined in this act and by the state board of education. The state board of education shall through its department of education determine eligibility criteria for the exceptional children, qualifications of special teachers and special personnel, programs of instruction and minimum standards for classrooms and equipment to be used in administering the provisions of this act.

North Carolina

Section 115.364. (e) On or before October 15, 1977, and annually thereafter, each local educational agency shall report to the Board the extent to which it is then providing special education for children with special needs. The annual report also shall detail the means by which the local educational agency proposes to secure full compliance with the policy of this act....

(f) After submitting the report required by subsection (e), the local educational agency also shall submit such supplemental and additional reports as the Board may require to keep the local educational agency's plan current.

(i) Each local educational agency shall provide free appropriate special education and related services in accordance with the provisions of this act for all children with special needs who are residents of, or whose parents or guardians are residents of, the agency's district, beginning with children aged five. No matriculation or tuition fees or other fees or charges shall be required or asked of children with special needs or their parents or guardians except such fees or charges as are required uniformly of all public school pupils. The provision of free appropriate special education within the facilities of the Department of Human Resources shall not prevent that department from charging for other services or treatment.

Pennsylvania

Section 13-1372. (2) Plans for Education and Training Exceptional Children.--Each intermediate unit, cooperatively with other intermediate units and with school districts shall prepare and submit to the Superintendent of Public Instruction, on or before the first day of August, one thousand nine hundred seventy for his approval or disapproval, plans for the proper education and training of all exceptional children in accordance with the standards and regulations

adopted by the State Board of Education. Plans as provided for in this section shall be subject to revision from time to time as conditions warrant, subject to the approval of the Superintendent of Public Instruction.

(3) Special Classes or Schools Established and Maintained by School Districts.--Except as herein otherwise provided, it shall be the duty of the board of school directors of every school district to provide and maintain, or to jointly provide and maintain with neighboring districts, special classes or schools in accordance with the approved plan. The Secretary of Education shall superintend the organization of such special classes and such other arrangements for special education and shall enforce the provisions of this act relating thereto. If the approved plan indicates that it is not feasible to form a special class in any district or to provide such education for any such child in the public schools of the district, the board of school directors of the district shall secure such proper education and training outside the public schools of the district or in special institutions, or by providing for teaching the child in his home, in accordance with rules and regulations prescribed by the Department of Education, on terms and conditions not inconsistent with the terms of this act or of any other act then in force applicable to such children. However, the institution of special classes, and programs at the secondary level for exceptional children who are gifted and talented students may be deferred until September 1978 at the discretion of the board of the school directors of any school district.

In addition to the above and in accordance with rules and regulations prescribed by the Department of Education, homebound instruction shall be provided for children confined in detention homes as provided in section 7, act of June 2, 1933 (P.L. 1433, No. 311) as amended for the period of their confinement, if their confinement exceeds or is expected to exceed ten days, even though such children are not exceptional.

(4) Classes for Exceptional Children. The Intermediate unit shall have power, and it shall be its duty, to provide, maintain, administer, supervise and operate such additional classes or schools as are necessary or to otherwise provide for the proper education and training for all exceptional children who are not enrolled in classes or schools maintained and operated by school districts or who are not otherwise provided for.

ALTERNATIVE STATE STATUTE LANGUAGE

SECTION 9: PERSONNEL

Florida

Section 231.15. Positions for which certificates required.--The state board of education shall have authority to classify school services and to prescribe regulations in accordance with which certificates shall be issued by the department of education to school employees who meet the standards prescribed by such regulations for their class of service. Each person employed or occupying a position as school supervisor, helping teacher, principal, teacher, school librarian or other position in which the employee serves in an instructional capacity in any public school of any district of this state, shall hold the certificate required by law and by regulations of the state board in fullfilling the requirements of the law for the type of service mandated. However, the state board shall adopt regulations authorizing school boards to employ selected noncertificated personnel to prvide instructional services in the individual's field of speciality, or to assist instructional staff members as teacher aides. Each person employed as a school nurse shall hold a license to practice nursing in the state, and each other person employed as a school physician shall hold a license to practice medicine in the state.

Section 239.371. Scholarships for teachers for special training in exceptional child education.--(1) The department of education is authorized to make training grants to teachers who seek special training in exceptional child education to qualify said teachers to meet professional requirements and shall be responsible for the administration of said program.

(2) These grants are limited to teachers who are under contract to teach in the exceptional child program in this state, the Sunland Training Centers, the child training centers, and at the Florida School for the Deaf and the Blind.

(3) Each grant shall cover the cost of tuition, housing and food, to a maximum of two hundred dollars for residence enrollment in specific courses approved by the department of education for certification in exceptional child education. Said courses to be offered on the campuses of the institutions of higher learning in this state and through the Florida Institute for Continuing University Studies.

(4) Where courses are not available in this state in the areas requiring certification in exceptional child education, the recipient may receive said grant for attending an out-of-state institution of higher learning approved by the department of education to meet the professional requirements of

the state.

(5) The department of education shall administer this program under regulations established by the department.

Georgia

Section 32-609a. (f) The State Board of Education may allot funds to local units of administration in accordance with a local plan for staff development to improve their personnel provided that the plan has been approved by the State Board. Funds for staff development shall be based on the number of professional units allotted by the State Board to local units of administration. The State Board shall be authorized to make payments for additional activities beyond the regular school day or year as an integral part of the plan for staff development. It is further provided that the State Board of Education may allot funds to support supervision and assessment activities for student teachers and beginning teachers in accordance with an approved program that meets standards established by the State Board. The supervision and assessment of student teachers and beginning teachers may include support to supplement the salaries of instructional personnel who supervise student teachers and beginning teachers. The State Board of Education is authorized to establish the rate for reimbursement of said salary supplements.

ALTERNATIVE STATE STATUTE LANGUAGE

Section 32-620a. Student services support personnel.--
(a) The State Board of Education shall annually allot student services support personnel to local units of administration on the basis of one per 400 pupils in average daily attendance in the local unit of administration, adjusted as provided for in section 32-637a and 32-642a. Student services support personnel shall include, for the purposes of allotment under this section: elementary and secondary counselors; school psychologists; psychometrists; and visiting teachers.

Section 32-621a. Administrative and supervisory services.--
(a) The State Board of Education shall annually allot administrative and supervisory personnel to local units of administration, except as provided for in this section, on the basis of one per 190 pupils in average daily attendance in thelocal unit of administration adjusted as provided for in sections 32-637a and 32-642a. Administrative and supervisory personnel positions provided by this allotment shall include, but not be limited to, principals, assistant principals, librarians, curriculum specialists, directors of curriculum and community school coordinators.

(b) The State Board of Education shall further allot professional central administrative personnel to all local units of administration on the basis of a one per 3,300 pupils in average daily attendance in the local unit of administration, adjusted as provided for in sections 32-637a and 32-642a. The administrative positions provided by this allotment shall include, but not be limited to, plant operations and maintenance, transportation, food service, instructional supervision, finance and business services, planning and evaluation and direction of community business services, planning and evaluation and direction of community school programs. For those local units of administration which do not earn sufficient central administration personnel, the State Board of Education is authorized to prescribe uniform requirements and procedures to allow a local unit of administration to utilize all or any part of its its central administration personnel allotments in conjunction with one or more local units of administration or with a Cooperative Education Service Agency: Provided, however, personnel allotments earned under the provisions of this section may not be assigned for use as classroom teachers, or other personnel designated in subsection (a) of this Section.

ALTERNATIVE STATE STATUTE LANGUAGE

(c) The State Board of Education shall be authorized to fund professional personnel positions to local units of administration as follows:

(1) preschool leadership positions on the basis of one to each 50 preschool instructional units; and

(2) special education leadership positions on the basis of one to each 40 special education instructional units.

(d) During the next school year the amount of funds distributed to any local unit for the purpose of funding the positions authorized in subsections (a), (b) and (c) hereof shall not be in excess of the amount actually required by the local unit for payment of salaries of certificated professional personnel actually employed by the local units of administration. The amount of funds needed by a local unit to pay the salaries of certificated professional personnel shall be determined on a 10-month basis in accordance with the State minimum standards respecting utilization of State-allotted professional personnel.

Section 32-655a. (c) After July 1, 1976, any person certified as a teacher, principal or guidance counselor pursuant to subsection (a) of this Section shall have satisfactorily completed a course of five or more quarter hours, approved by the State Board of Education, in the identification and education of children who have special educational needs, or shall have satisfactorily completed an equivalent preparation in a staff development program designed to assist teachers, principals and guidance counselors in the identification and education of children who have special educational needs, provided such staff development program shall have received prior approval of the State Board of Education. As used herein, 'children who have special educational needs' means such children as defined by Section 5 of this Act. Those teachers, principals and guidance counselors of other states who would be employed and certified in Georgia schools but lack the requirements of this provision shall have a period of one year from date of employment to obtain prescribed training. Teachers already certificated in Georgia shall have until their re-certification date or one year, whichever is greater, to comply with this Act. Anyone taking this course shall receive credit toward certification and in-step raises for this course.

ALTERNATIVE STATE STATUTE LANGUAGE

Idaho

'Ancillary personnel' are those persons who render special services to exceptional children in regular or in addition to regular or special class instruction as defined by the state board of education.

Illinois

Section 14A-7. Consulting staff.--The Superintendent of Public Instruction shall maintain a consulting staff of persons qualified by personality and experience to provide consultative assistance for the planning, operation and evaluation of programs for the education of gifted children.

Section 14A-8. Fellowship program.--The Superintendent of Public Instruction with the advice and consent of the Council may make fellowship grants to persons of good character who are graduates of a recognized college or university and are interested in working in programs for the education of gifted children, for full time study at the graduate level in programs designed to improve their competence for working in such programs. Such grants shall not exceed 60 in any academic year and may be in amounts of $2,000.00 per academic year and shall be granted under rules and regulations prescribed by the Superintendent of Public Instruction and issued pursuant to this Act.

The Superintendent of Public Instruction shall administer the fellowship account and related record of each person who is attending an institution of higher learning under a fellowship awarded pursuant to this section and at each proper time shall certify to the Auditor of Public Accounts or the State Comptroller, as the case may be, the current payment to be made to the holder of each fellowship, in accordance with an appropriate certificate of the holder of such fellowship endorsed by the institution of higher learning attended by him.

Following the completion of such program of study, the recipient of such fellowship is expected to contribute to the further development of educational programs for gifted children in Illinois for a period of five years.

Pennsylvania

Section 13-1372. (5) Day Care Training Centers, Classes and Schools for the Proper Education and Training of Exceptional Children.--Where in the judgment of the Superin-

tendent of Public Instruction, the provisions of this act relating to the proper education and training of exceptional children have not been complied with or the needs of exceptional children are not being adequately served, the Department of Public Instruction is hereby authorized to provide, including the payment of rental when necessary, maintain, administer, supervise and operate classes and schools for the proper education and training of exceptional children. Pupil eligibility for enrollment in classes for exceptional children shall be determined according to standards and regulations promulgated by the State Board of Education. For each child enrolled in any special class or school for exceptional children operated by the Department of Public Instruction, the school district in which the child is resident shall pay to the Commonwealth, a sum equal to the 'tuition charge per elementary pupil' or the 'tuition charge per high school pupil' as determined for the schools operated by the district or by a joint board of which the district is a member based upon the costs of the preceding school term as provided for in section two thousand five hundred sixty-one of the act to which this is an amendment plus a sum equal to ten (10) per centum of such tuition charges. In the event that any school district has not established such 'tuition charge per elementary pupil' or 'tuition charge per high school pupil,' the Superintendent of Public Instruction shall fix a reasonable charge for such district for the year in question. In order to facilitate such payments by the several school districts the Superintendent of Public Instruction shall withhold from any moneys due to such district out of any State appropriation, except from reimbursement due on account of rentals as provided in section two thousand five hundred eleven point one of the act to which this is an amendment,[3] the amounts due by such school districts to the Commonwealth. All amounts so withheld are hereby specifically appropriated to the Department of Public Instruction for the maintenance and administration of centers and classes for exceptional children.

(6) Pupils Credited to District of Residence.--The average daily membership of pupils enrolled in clases and schools for exceptional children, operated by an intermediate unit or by the Department of Public Instruction, shall be credited to the school district of residence for the purpose of determining the district's 'teaching units' to be used in calculating the district's reimbursement fractions or weighted average daily membership to be used in calculating a district's aid ratio and in determining payments to the district on account of instruction as pro-

vided in section two thousand five hundred two of the act to which this is an amendment.

Section 13-1373. State reimbrusement; reports. School districts maintaining special classes in the public schools or special public schools or providing special education, as specified in this subdivision of this article, shall receive reimbursement, as provided by this act, so long as such classes, such schools, and such special education are approved by the Department of Public Instruction as to location, constitution and size of classes, such schools, and such special education are approved by the Department of Public Instruction as to location, constitution and size of classes, conditions of admission and discharge of pupils, equipment, courses of study, methods of instruction and qualification of teachers.

On or before the first day of November of each year, the secretary of the board of school directors in each district in which special education for exceptional children is provided shall make such reports as may be required by the Department of Public Instruction, in regard to such special education being maintained for the current school year for which approval is desired. As amended 1965, Oct. 21, P.L. 601, Section 36.

Section 13-1373.1. Readers; helpers; guides; aids; appliances; etc.; reimbursement.--The Commonwealth shall reimburse school districts out of the moneys appropriated to the Department of Public Instruction for special education for the cost of readers, helpers, guides, aids, appliances, special school books and supplies and devices for any child between the ages of six and twenty-one years of age who is blind, partially sighted, deaf, hard of hearing, or afflicted with cerebral palsy, and who is enrolled with the approval of the Department of Public Instruction, in any of the public schools of the Commonwealth, an amount equal to the costs of these services and equipment multiplied by the district's aid ratio.

No such expenditures nor purchases may be made by any school district unless in accordance with a budget submitted by the district and approved by the Department of Public Instruction. The total expenditure by the Commonwealth hereunder shall not exceed seventy-five percent of a sum which would have been expended for the tuition and maintenance of any such child in a residential school for the blind, including partially sighted, deaf, hard of hearing, or those afflicted with cerebral palsy, that has been approved by the Department of Public Instruction for the education of the blind, partially sighted, deaf, hard of hearing, or those afflicted with cerebral palsy.

ALTERNATIVE STATE STATUTE LANGUAGE

SECTION 10: FISCAL MANAGEMENT

California

Section 6423.1. Beginning July 1, 1970, any proposed program for mentally gifted minors shall receive prior approval of the Superintendent of Public Instruction before any apportionment is made under this article.

Section 6426. Apportionment of Allowances; Limitations; Reports.--The Superintendent of Public Instruction, if he approves, shall apportion to each applicant school district or county superintendent of schools an amount equal to the following....

Fiscal Year	Amount per pupil participating in program for one school year
1972-1973	$ 70
1973-1974	80
1974-1975	90
1975-1976 and fiscal years thereafter	100

The amount per pupil participating for one semester is one-half of the amount prescribed above for one year's participation.

The Superintendent of Public Instruction, if he approves, shall also apportion to each applicant school district or county superintendent of schools an amount equal to fifty dollars ($50) for each pupil identified as a mentally gifted minor.

Apportionments made during a fiscal year pursuant to this section shall not be made on account of more than 3 percent of the units of average daily attendance of pupils during the preceding fiscal year credited to all kindergartens and grades 1 through 12 in all of the schools and classes maintained by school districts and county superintendents of schools.

Each applicant school district or county superintendent of schools shall report to the Superintendent of Public Instruction as a part of the annual financial report the total income, including the amount apportioned for special programs and services for mentally gifted pupils during the year, the total number of such pupils participating in special programs or services, and the amount per special program or service

expended for them. If the Superintendent of Public Instruction finds that the amount of state funds allocated are in excess of the expenditures, such excess shall be withheld pursuant to the provisions of Section 17414.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to permit the revised allowances prescribed by this act to be cooperative for the 1972-1973 fiscal year, and so effectuate the intent of the Legislature, it is necessary that this act take effect immediately.

Section 17303.5(e). State School Fund Allocation Schedule.--One dollar and sixty-seven cents ($1.67) multiplied by the average daily attendance during the preceding fiscal year credited to all kindergarten, elementary, high school, junior college and adult schools in the state and to county school tuition funds for allowances to school districts for the purposes of Section 6426.

Connecticut

Section 10-76c. State grants for cooperative regional special education facilities.--Any school district which agrees by the state board of education, for children requiring special education who reside in other school districts shall be eligible to receive a grant in an amount equal to the net cost to such district of providing, constructing or reconstructing and equipping appropriate facilities to be used exclusively for children requiring special education, provided such facilities shall be approved by the state board of education and shall be an adjunct to or connected with facilities for children in the regular school program, except when the state board of education determines that separate facilities would be of greater benefit to the children participating in the long-term special education program. Such grants shall be in addition to any grant received pursuant to section 10-286. Application for grants under this section shall be made to the state board of education at such time and in such manner as said board may prescribe. Said board may make such a grant in an amount equal to one hundred per cent of the cost of the facilities less any other public or private grants for such purpose. Upon certification of completion of the building project by the secretary, the comptroller shall pay the sum granted to the town or regional school district in a lump sum.

ALTERNATIVE STATE STATUTE LANGUAGE

Section 10-76g. State aid for special education.--(a) Except as provided in subsection (b) of this section, any school district which provides special education, in accordance with regulations made pursuant to section 10-76a to 10-76g, inclusive, and 10-94a, for any exceptional child shall be reimbursed in an amount equal to sixty-six and two-thirds per cent of its net cost of special education for the preceding fiscal year except as hereinafter provided; provided applications for such reimbursements shall be made not later than October first, and provided all such reimbursements shall be made not later than December fifteenth. In any case in which special education is being provided at a private institution to a child for whom no school district can be found responsible under subsection (b) of section 10-76d, the reimbursement herein provided for shall be payable to such institution and for such purpose such institution shall be considered a school district within the meaning of sections 10-76a to 10-76j, inclusive.

(b) Any town or regional school district which provides special education in accordance with regulations made pursuant to this section or to sections 10-76a to 10-76f, inclusive, of the general statutes, for any exceptional child who is under the care, supervision or guardianship of any agency of the state and who, as an alternative to placement in any health care facility or institution, as defined in section 19-73b of the general statutes, has been placed in a foster or group home within such school district, shall be reimbursed in an amount equal to one hundred per cent of its net cost of special education for the preceding fiscal year in those cases where the sum of the cost to the state for such child's foster or group home placement plus one hundred per cent reimbursement of the special education costs attributable to such child while in such foster or group home equals an amount less than the sum of the cost to the state for such child's placement in a health care facility or institution plus sixty-six and two-thirds per cent reimbursement of the special education costs attributable to such child while placed at such health care facility or institution. Application for such reimbursement shall be made not later than October first and all such reimbursements shall be made not later than December fifteenth.

Georgia

Section 32-609a. (c) The State Board of Education shall annually determine the amount of funds needed for elementary and secondary programs operated within correctional institutions, hospitals, mental institutions and other such

programs. The State Board of Education shall annually allot additional funds to local units of administration wherein State Boards maintain an institution primarily for the detention of persons within school age, and operates within such institution an elementary, secondary or vocational school for the education of such school age children, which shall be sufficient to enable the local unit to furnish certified teachers and other professional personnel to such school and institution in accordance with the State minimum salary schedule. Provided, however, that the course of instruction offered in such school shall meet minimum academic requirements and standards prescribed for operation of the public schools of the local unit. The State Board is authorized, in its discretion, to make an allotment of additional funds to the local unit for employment of such teachers and other school year where the school in such institution is operated on a 12-month basis.

Section 32-610a. Allotment of instruction units; amount of funds needed for payment of salaries of instructional personnel.--(a) The State Board of Education shall annually allot instructional units to local units of administration on the following basis and adjusted as provided for in sections 32-637a and 32-642a:

(1) General education: one instructional unit per 25 pupils in boards of education of local units of administration under the 1960-61 State school building program. The State Board of Education shall make such allotments of State capital outlay funds from any funds available to the State Board of Education.

Section 32-638a. Calculated cost of instructional services.--(a) The total amount of funds needed by a local unit of administration in order to provide the instructional services assured under the Adequate Program for Education in Georgia, as contemplated by provisions of this Chapter, shall be deemed to be the sum arrived at by adding the amount of funds, calculated in the manner provided for in this Chapter needed by the local unit of administration for the following purposes:

(1) payment for providing special education programs to meet the special needs of children as provided for in Section 32-605a;

(2) payment of preschool program expenses as provided for in Section 32-607a;

(3) payment of salaries of instructional personnel as provided for in sections 32-605a, 32-610a and 32-612a;

(4) purchase of instructional media as provided for in

section 32-613a;

(5) purchase and repair of instructional equipment as provided for in section 32-614a;

(6) payment of maintenance and operation expenses as provided for in section 32-615a;

(7) payment of sick and personal leave expenses as provided for in section 32-616a;

(8) payment of travel expenses as provided for in section 32-617a;

(9) payment of salaries of student services supportive personnel as provided for in section 32-620a;

(10) payment of salaries of administrative and supervisory personnel as provided for in section 32-621a;

(11) payment of salaries of clerical personnel as provided for in section 32-624a;

(12) payment of expenses of pupil transportation as provided for in section 32-625a; and

(13) payment of expenses for isolated schools as provided by section 32-625a.1.

(b) The sum arrived at in the manner provided above shall be known as the calculated cost of instructional services under the Adequate Program for Education in Georgia for a local unit of administration. The amount of State funds which shall be allocated to each local unit of administration in support of such program by the State Board of Education shall be the sum determined above as the calculated cost of providing an Adequate Program for Education in Georgia in the local unit in support of said program, less an amount which shall be determined in accordance with the financial ability of the local unit calculated in the manner as provided for in section 32-639a.

Section 32-640a. Apportionment and distribution of Federal funds.--All Federal funds received by the State Board of Education for purposes contained within this Chapter shall be apportioned and distributed by the State Board in a manner consistent with this Chapter as additional aid to local school units in defraying the cost involved in establishing and operating approved programs subject to such rules and regulations as may be prescribed by the State Board of Education and in accordance with the approved State plan for such programs, where applicable.

Idaho

Section 33-2005. Ancillary personnel--Reimbursement.--Special educational services may be rendered by any school district or school districts for enrolled exceptional children, through contract for services or by the employment of full-time or

part-time ancillary personnel in accordance with the regulations and standards prescribed by the state board of education. Whenever a school district or school districts provide such services and employ such personnel each district or designated district shall be reimbursed as provided in section 33-1006A, Idaho Code.

Section 33-2005A. Ancillary personnel--Funding.--Any school district, or combination of districts, which contracts for the services of anciallary personnel, shall be reimbursed during the current year of employment for such services. Such reimbursement shall be payable quarterly. Payment shall be conditioned upon prior receipt of such records and reports as the state board of education shall require in order to substantitate claims for such services. Total payment shall be in amounts up to and including eighty per cent (80%) of the salaries of such personnel as determined by appropriate placement on the regular teacher salary schedule of the district.

Section 33-2004. Contracting by approved form for education by another school district, approved rehabilitation center or hospital, or a corporation.--The trustees of a school district may contract on a form adopted by the state board of education for the education of exceptional children by another school district or by any private or public rehabilitation center, hospital, or corporation, approved by the state board of education and when such students are transferred from the school district to the institution, corporation, or district, said school district shall agree to pay therefor to the institution, corporation or district contracting to educate such students amounts computed as follows:

1. For each resident student educated by another school district, the amount of the tuition rate certified for the receiving district under the provisions of section 83-1405, Idaho Code;

2. For each resident student educated by contract by a rehabilitation center, hospital, corporation or state agency, the amount of the tuition rate certified for the sending district under the provisions of section 33-1405, Idaho Code, and the sum of state and county funds received for each child in weighted average daily attendance as determined by the state board of education. Total allowance for an approved contract cannot be greater than the educational costs of the contract amount, but in no case may exceed a payment of four and eight-tenths (4.8) times the determined state average cost factor per weighted student.

ALTERNATIVE STATE STATUTE LANGUAGE

When public school districts contract for the education of exceptional children residing within the several districts, one (1) district shall be designated as the educating district for the purpose herein.

Should any corporation provide a program of education for exceptional children, contracts and payments as herein authorized may be made to such corporation upon approval of the state board of education.

When any rehabilitation center, hospital, or corporation shall have contracted for the education of any exceptional children as defined in this act all such children shall be enrolled in the district of their residence; and the institution, hospital or coproration shall certify to the home school district the daily record of attendance of each such pupil. The home district shall be qualified to compute the average daily attendance of such pupils, and, together with other average daily attendance of exceptional children being educated in the district, if any, certify the same to the state board of education in the following annual report of the district.

Illinois

Section 14A-5. Reimbursement for services and materials.--Pursuant to regulations of the Superintendent of Public Instruction proposed programs for gifted children may be submitted to the Council by a school district, 2 or more cooperating school districts, a county, or 2 or more cooperating counties. Such proposals shall include a statement of the qualifications and duties of the personnel required in the fields of dagnostic, counseling and consultative services and the educational materials necessary.

Upon receipt of such proposals the Council shall evaluate them and if found to contribute to the development of a State plan to increase the service of the public school in the field of education of gifted children, the Council shall recommend the acceptance thereof to the Superintendent of Public Instruction, who may approve the same. Upon the approval of the district's program and its operation for a full school term, the district shall be entitled to reimbursement for the services and materials required therefor, by the method described in either (a) or (b) as follows:

(a) For the product of ½ of the average per capita cost of pupils included in all the approved programs for gifted children in the school districts of the State, as determined by the Council, multiplied by the number of pupils in average daily attendance in the district's program, multiplied by one of the following factors:

ALTERNATIVE STATE STATUTE LANGUAGE

The factors for school districts having different assessed valuation per pupil in average daily attendance shall be:

1 in districts with $20,000 or more;
1.2 in districts with $16,000 but less than $20,000;
1.3 in districts with $12,000 but less than $16,000;
1.4 in districts with $9,000 but less than $12,000;
1.5 in districts with less than $9,000.

In no case shall the claim for reimbursement of any district exceed the per capita cost of such program to the district multiplied by the number of pupils in average daily attendance in the district's program nor shall the number of pupils for whom reimbursement is claimed exceed 5% of the number of pupils in average daily attendance in the district.

(b) For each professional worker, who meets the established standards for his position, employed in the district's program at the annual rate of $5,000.

On or before July 10, annually, the president and the secretary of the district shall certify to the regional superintendent upon forms prescribed by the Superintendent of Public Instruction the district's claim for reimbursement for the school year ended on June 30 next preceding. The regional superintendent shall check all such claims to ascertain compliance with the prescribed standards and upon his approval shall certify not later than July 25 to the Superintendent of Public Instruction the regional report of claims for reimbursements. The Superintendent of Public Information shall check and upon approval he shall transmit by September 15 the state report of claims to the State Comptroller and prepare the vouchers showing the amounts due respective regions for their district reimbursement claims.

If the amount appropriated for such reimbursement for any year is insufficient it shall be apportioned on the basis of the claims approved.

When any school district eligible for reimbursement under this Section operates a school for a full year in accordance with Section 10-19.1 of this Act such reimbursement shall be increased by 1/185 of the amount or rate paid hereunder for each day such school is operated in excess of 185 days per calendar year.

North Carolina

Section 115-410. Non-reduction.--Notwithstanding any of the other provisions of this act, it is the intent of the General Assembly that funds appropriated by it for the operation of programs of special education and related services by city and county school administrative units not be reduced; rather, that adequate funding be made available to meet

the special educational and related services needs of children with special needs, without regard to which State or local department, agency, or unit has the child in its care, custody, control, or program.

Section 115-420. Budget analysis.--The Division of Fiscal Research shall conduct an annual budget analysis of the budgets of the Departments of Human Resources and Correction to determine what funds are expended by those departments for programs of special education and related services for children with special needs, aged birth through 21, and shall submit a report of its analysis to the General Assembly, the Governor, and the State Board of Education and the Departments of Human Resources and Correction no later than October 1, of each year, beginning with the year 1977.

Section 115-421. Departmental requests.--All budget requests for funding of new or existing or for the expansion of existing programs of special education and related services for children with special needs, aged birth through 21, to be furnished or provided by the Departments of Human Resources or Coorection shall be submitted by those departments to the Board for review and comment prior to presentation by the respective department to the Advisory Budget Committee, effective for the fiscal year beginning July 1, 1978, and annually thereafter.

Section 115-422. Allocation of federal funds.--At such time as any federal monies for the special education and related services for children with special needs are made available, these funds shall be allocated according to a formula designed by the Board not inconsistent with federal laws and regulations. Such formula shall insure equitable distribution of resources based upon the number of children with special needs served by the respective agencies, and shall be implemented as funds are made available from federal and State appropriations.

Florida

Section 236.081. Funds for current operation of schools.--The annual allocation from the Florida education finance program to each district for current operation of schools shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR CURRENT OPERATION. The following procedure shall be followed in determining the annual allocation to each district for current operation:

ALTERNATIVE STATE STATUTE LANGUAGE

(a) Determination of full-time equivalent membership.--During each several school weeks during the fiscal year, a program membership survey of each school shall be made by each district by aggregating the full-time equivalent student membership of each program by school and by district. The department shall establish the number and interval of membership calculations, except that for basic and special programs such calculations shall not exceed nine for any fiscal year. The district's full-time equivalent membership shall be computed and currently maintained in accordance with the regulations of the state board.

(b) Determination of base student cost.--The base student cost shall be determined annually by the legislature. For the 1975-76 school fiscal year the base student cost is fixed at seven hundred forty-five (745) dollars.

(c) Determination of programs.--Cost factors based on desired relative cost differences between the following programs are hereby established. However, the application of cost factors in part-time programs for exceptional students identified by the Roman numeral I shall be limited to a maximum of twelve twenty-fifths of a student membership in a given program during a week. The criteria for qualification for the special programs shall be determined by regulations of the state board. Cost factors for special programs for exceptional students shall be used to fund programs, approved by the department, as provided by law for exceptional students under the minimum age for enrollement in kindergarten.

1. Basic program.--	Cost Factor
a. Kindergarten and grades 1, 2, and 3	1.234
b. Grades 4, 5, 6, 7, 8, and 9	1.00
c. Grades 11 and 12	1.10
2. Special programs for exceptional students.--	
a. Educable mentally retarded	2.30
b. Trainable mentally retarded	3.00
c. Physically handicapped	3.50
d. Physical and occupational therapy part-time	6.00
e. Speech and hearing therapy part-time	.10.00
f. Deaf	4.00
g. Visually handicapped part time	.10.00
h. Visually handicapped	3.50
i. Emotionally disturbed part time	7.50
j. Emotionally disturbed	3.70

k.	Socially maladjusted	2.30
l.	Specific learning disability part time	7.50
m.	Specific learning disability	2.30
n.	Gifted part time	3.00
o.	Hospital and homebound part time	15.00

3. Special vocational-technical program.--

a.	Vocational education I	4.26
b.	Vocational education II	2.64
c.	Vocational education III	2.18
d.	Vocational education IV	1.69
e.	Vocational education V	1.40
f.	Vocational education VI	1.17

4. Special adult general education programs.--

a.	Adult basic education and adult high school	1.28
b.	Community services	0.675

(d) The Department is authorized and directed to review all district programs in the areas of exceptional student programs, special vocational-technical programs and special adult general education programs. First priority in the assignment of full-time equivalent student membership shall be based on the request of the districts as submitted and approved by the department. Any un-assigned full-time equivalent membership shall be allocated to those districts with the lowest incidence of programs to students identified to be in need of such special programs.

1. The weighted full-time equivalent student membership in special programs for exceptional students shall not exceed 185,055. The weighted full-time equivalent student membership in special vocational-technical programs shall not exceed 302,203. The weighted full-time equivalent student membership in special adult general education programs shall not exceed 30,149, of which 27,184 shall be adult basic education and adult high school full-time equivalent students and 2,965 shall be community service full-time equivalent students.

2. In administering the maximums, the department shall review each district's program and needs with each scheduled student membership survey and may reassign the authorized weighted membership within the maximums provided. In any district in which, after the final assignment, the actual full-time equivalent membership multiplied by the appropriate cost factors exceeds the assigned maximum, such excess full-

time equivalent student membership shall be computed at a cost factor of 1.00. Excess full-time equivalent membership in community service programs shall be computed at a cost factor of 0.0.

(e) Determination of the basic amount for current operation.--The basic amount for current operation to be included in the Florida education finance program for each district shall be the product of the following: 1. The full-time equivalent student membership in each program, multiplied by 2. The cost factor for each program adjusted for the maximum as provided by paragraph (d) above multiplied by 3. The base student cost figure.

Section 236.083. Funds for student transportation.--The annual allocation to each district for transportation to the public schools of students in kindergarten through grade twelve (12) and exceptional students shall be determined as follows:

(1)Subject to the regulations of the state board each district shall determine the membership of students who are transported:

(a) by reason of living two (2) miles or more from school, and

(b) by reason of being physically handicapped, regardless of distance to school, and

(c) by reason of being vocational and exceptional students transported from one school center to another.

(2) Subject to the regulation of the state board, each district shall determine and report the one-way route mileage required to transport students to school for the first time on any school day and the one-way miles on routes between school centers required to transport exceptional students to school for the first time on any school day and the one-way miles on routes between school centers required to transport exceptional students and vocational students to centers where appropriate programs are provided. The one-way route mileage shall be computed by adding:

(a) The loaded miles of each school bus route one way designated in accordance with Section 234.061 and served by a bus as defined by regulations of the state board, except that miles traveled for a side route to pick up students living within one and one-half miles of the main trunk route and miles traveled to transport students to evening schools and enrichment programs shall not be added; and

(b) Fifty (50) percent of the miles of the bus route traveled without students.

(3) A density index for each district shall be computed by the depot agent annually by dividing the membership

of transported students as designated in subsection (1) by the bus route mileage as determined in subsection (2) of this section.

(4) The allocation for each district for a one hundred and eighty (180) day school term shall be calculated in accordance with the following formula:

$$\text{Allowable per student cost} = \frac{434.77}{2 + \text{the density index of the district}} - 13.65$$

except that the districts with a density index of 1.10 students per route mile or less will be computed as having a density index of 1.10, and districts with a density of 5.90 or more students per route mile will be counted as having a density index of 5.90. The allocation to each district for transportation shall be determined by multiplying the allowable cost per student by the membership of all students who are transported as determined in subsection (1) of this section.

(5) If a district operates schools more or less than one hundred eighty (180) days, the allocation per student for transportation to such schools shall be calculated by multiplying the quotient of the days the schools operate divided by one hundred eighty times the allocation per student determined in subsection (4) of this section. The allocation for each district for transportation of students in membership more or less than one hundred eighty (180) days shall be determined by multiplying the quotient of the days the schools operate divided by one hundred eighty times the allocation per student determined in subsection (4) of this section. The allocation for each district for transportation of students in membership more or less than one hundred eighty (180) days shall be determined by multiplying the allowable cost per student determined in this subsection by the membership of such students who are transported.

(6) When authorized by regulations of the state board an allocation of twelve (12) cents per mile shall be allowed for miles traveled by passenger cars with students providing for transportation of isolated students.

(7) The total allocation to each district for transportation of students shall be the sum of the amounts determined in subsections (4), (5) and (6); provided, however, if the funds appropriated for the purpose of implementing this section are not sufficient to pay the requirements in full, the department of education shall prorate the available funds on a percentage basis.

(8) No district shall use funds to purchase transportation equipment and supplies at prices which exceed those determined by the department to be the lowest which can be obtained as prescribed in 229.79, Florida Statutes.

(9) Pursuant to policies and regulations to be adopted by the Commissioner of Education, each school board may submit to the commissioner a proposed program designed to coordinate the use of public school buses. With the concurrence of the appropriate controlling agencies, authority or owner of other available transportation equipment for public conveyance, such equipment may be used not only for the transportation of students, but also for the elderly, the handicapped, and other similarly needy segments of society. The superintendent shall prepare an itemized statement of the estimated total cost of the program, and a copy of the school board resolution indicating its intention to provide at least one-half of the total cost of the program either directly, or through the use of available federal funds. The program may authorize the school board with the concurrence of the appropriate controlling agencies, authority, or owner to impose fares for the use of the transit service provided. The commissioner shall review and approve, disapprove, or resubmit to the school board for modification all proposed programs submitted. For the fiscal year 1975-76, the commissioner shall approve pilot programs in up to three school districts and shall authorize distribution of funds in an amount not to exceed one-half of the total cost of the proposed pilot programs. The funds necessary to implement the pilot programs shall be subtracted from the total student transportation funds available to the districts prior to the allocation as determined by subsection (7), provided, however, that the total dollars allocated for the three programs in fiscal years 1975-76 shall not exceed $100,000. The commissioner shall, at least 30 days prior to the 1976 regular session of the legislature, transmit to members of the State Board of Education, the president of the senate and speaker of the house of representatives an appraisal of the pilot programs, including a recommendation as to possible expansion of the programs into all 67 school districts, and any other recommendation deemed by the commissioner to be appropriate.

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